

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 542 OF 2016

1. The Managing Committee of
Shree Susenashram Vidhyalay,
Through its President
Smt. Kshama K. Redkar,
major, Jetty Mormugao, Goa.
2. Shree Susenashram Education Society
Society registered
Under the Society Registration Act
with office at Jetty Mormugao Goa. ... Petitioners

V e r s u s

1. The Director of Education
The Directorate of Education
with office at Porvorim, Goa.
2. Shri Bharat H. Talankar,
Major, presently working as
Lower Division Clerk,
Shree Susenashram Vidhyalay
Jetty Mormugao, Goa. ... Respondents

Mrs. A. Agni, Senior Advocate with Ms. Aditi Kamat, Advocate for the Petitioner.

Mr. Arun Talaulikar, Addl. Government Advocate for the Respondent no. 1.

Mr. Avinash Nasnodkar, Advocate for the Respondent no. 2.

Coram :- **F. M. REIS,**
NUTAN D. SARDESSAI, JJ.

Date: 24th August, 2016

JUDGMENT (Per F. M. Reis, J.)

Heard Mrs. Agni, learned Senior Advocate appearing for the Petitioner, Mr. Talaulikar, Addl. Government Advocate appearing for the

Respondent no. 1 and Mr. Nasnodkar, learned Counsel appearing for the Respondent no. 2.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents, waive service.

3. Upon hearing Mrs. Agni, learned Senior Advocate appearing for the Petitioner, the main grievance of the Petitioner is that whilst seeking approval of the Respondent no. 1 to impose penalty on the Respondent no. 2 pursuant to a Disciplinary Proceeding initiated by the Petitioner, the Respondent no. 1 has exceeded his jurisdiction by suggesting a particular penalty be imposed though no finding is recorded that the penalty proposed was shockingly disproportional to the misconduct held against the Respondent no. 2. Learned Senior Advocate, however pointed out that the Respondent no. 1 has no jurisdiction with that aspect and, as such, the Order itself stands vitiated.

4. Learned Counsel appearing for the Respondent no. 2 pointed out that the Disciplinary Proceedings itself are vitiated as, according to him, they were conducted on the basis of Rules which are not applicable to the Respondent no. 2. Learned Counsel further pointed out that there is no basis in the charges levied on the Respondent no. 2 and, as such, the directions issued by Respondent no. 1 are justified.

5. Learned Addl. Government Advocate, upon instructions of the concerned Official from the Department, has pointed out that the Respondent no. 1 shall re-examine the application filed by the Petitioner for approval dated 29.04.2015 along with the Order dated 25.04.2015 attached thereto, afresh after hearing all the parties on its own merits in accordance with law.

6. Considering the said stand of the learned Addl. Government Advocate, we propose to dispose of the above Writ Petition by quashing the impugned Order dated 10.03.2016 and directing the Respondent no. 1 to proceed to re-examine the application for approval dated 29.04.2015 after hearing all the parties afresh on its own merits in accordance with law preferably within sixty days.

7. All the contentions of the Petitioner and the private Respondent no. 2 are left open as we have not examined the veracity of such contentions.

8. Rule stands disposed of in the aforesaid terms.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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