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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION No. 257 OF 2014

Mumbai Teachers Democratic Front
(TDF), through its President ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

Mr. Chetan Mali, for the Petitioners.

Mr. N. C. Walimbe, AGP for the Respondent - State.

CORAM : V. M. KANADE, &
Mrs. SWAPNA S. JOSHI, JJ.

DATE : SEPTEMBER 19, 2016

PC.

1. Heard the learned counsel appearing on behalf of the Petitioners. By this PIL, which is filed under Article 226 of the Constitution of India, the Petitioners are seeking reliefs:

- (a) For a writ of mandamus or a writ, order or direction in the nature of mandamus directing the Respondents to constitute a committee and inquire into the allegations made in the complaints filed by the Petitioner and take action against the

officers, management and school staff found involved in the illegalities alleged in 25th October 2012 preferably within 2 months from the date of the order;

- (b) For a writ of mandamus or a writ, order or direction in the nature of mandamus directing the Respondents to create a centralized system for approval and verification of degrees / certificates;
- (c) For a writ of mandamus or a writ, order or direction in the nature of mandamus directing the Respondents to carry out verification afresh of all the degrees / certificates submitted by teachers who have been appointed in the schools recognized under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and take further necessary steps as per the law in respect of the holders of fake degrees / certificates including recovery of salary and criminal proceedings against the people found involved in fake degree racket;
- (e) For a writ of mandamus or a writ order or direction in the nature of mandamus directing the Respondents to take strict action including that of recovery of money paid as salary against the

schools and managements of schools who after inquiry are found involved in illegal and unlawful appointments of teachers and also take action against the officers of the Education Department if found involved;

- (f) Any other relief as this Hon'ble Court deem fit having regard to facts and circumstances of the case;

Interim prayer, if prayed for:-

- (g) Pending the hearing and final disposal of the petition the Hon'ble Court be pleased to direct the Respondents to constitute a committee and inquire into the allegations made in the complaints filed by the Petitioner and take action against the officers, management and school staff found involved in the illegalities alleged;
- (h) Pending the hearing and final disposal of the petition the Hon'ble Court be pleased to direct the Respondents to create a centralized computerized system of approval and verification of degrees / certificates;
- (i) Pending the hearing and final disposal of the petition the Hon'ble Court be pleased to direct the Respondents to carry out verification afresh of all

the degrees / certificates submitted by teachers who have been appointed in the schools recognized under the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977 and take further necessary steps as per the law in respect of the holders of fake degrees / certificate including recovery of salary and criminal proceedings against the people found involved in fake degree racket;

(j) Pending the hearing and final disposal of the petition the Hon'ble Court be pleased to direct the Respondents to take strict action including that of recovery of money paid as salary against the schools and managements of schools who after inquiry are found involved in illegal and unlawful appointments of teachers and also take action against the officers of the Education Department if found involved;

(k) ad-interim relief in terms of prayer clause (g) (j).

2. The grievance of the Petitioners is that while appointing teachers in aided colleges and schools, proper verification of the documents / certificates is not made either by the Head-master, or the Management or the State Government.

3. A detailed affidavit in reply has been filed by the State. It is submitted that primary responsibility of verification of the qualification is of the Head-master or the Management. It is submitted that whenever any irregularity in appointment is brought to the notice of the Government, appropriate action has been taken. It is stated in paragraph 2 of the affidavit in reply that as per Clause 5 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977, the school management is the competent authority to appoint the teaching and non-teaching staff, according to their requirement, and the Head-master is the first responsible authority to verify the documents submitted by the candidates, and thereafter the proposal is sent to the office of the concerned Education Inspector. It is further submitted that whenever complaints of fake documents are received by the concerned authority, inquiry is made into the said complaints and after verification of the documents, the concerned authority i.e. Education Inspector issues notice to the school head asking to take appropriate steps / action as per the provisions laid down in MEPS Rules, 1981. The affidavit in reply also discloses that notices were issued by the concerned authority to

the school head pertaining to the complaints regarding the fake documents. The copies of said notices are annexed at Exhibit D2 to the petition. It is further stated that the directions have been given to the school head to terminate the services of those teachers and recover the amount of salary paid to the concerned teachers and file criminal cases against those teachers.

4. The learned counsel appearing on behalf of the Petitioners submits that the Petitioners have filed an affidavit in rejoinder denying these facts. It is stated that all these teachers are still working in the school.

5. We are of the view that all these questions are disputed question of facts, which could not be gone into while exercising our extraordinary jurisdiction under Article 226 of the Constitution of India. It is always open for the Petitioners in individual cases to approach the appropriate forum and seek redressal of their grievance, if it is found that despite proving that the documents produced by the teachers are fake, these teachers continue to work in the school. In view of this, we are not inclined to grant the omnibus prayer, directing the Education Officer / Inspector to verify the documents / certificates

produced by the teachers in aided school. Reserving the right of the Petitioners to approach an appropriate forum and file appropriate proceeding, PIL is disposed of.

Sd/-

[Mrs. SWAPNA S. JOSHI, J.]

Vinayak Halemath

Sd/-

[V. M. KANADE, J.]