

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5533/2014

(SANJAY DHULICHAND CHOUDHARY **VERSUS** SHIRINBAI NETERWALA FOUNDATION, BOMBAY & ORS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Akhtar Ansari, counsel for the petitioner.
Shri H.N. Verma, counsel for the R-1 & 2.
Shri N.R. Rode, A.G.P. for the R-4 & 5.

CORAM : SMT.VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : MARCH 21, 2016.

By this writ petition, the petitioner, who works as a teacher in a private school imparting C.B.S.E. education, has challenged the order of dismissal, dated 27.01.2014 as also the order putting the petitioner under suspension, as being arbitrary and illegal.

Shri Verma, the learned counsel for the respondent nos.1 and 2, raises a preliminary objection to the tenability of the writ petition. It is stated that the Hon'ble Supreme Court has held in the order dated 16.08.2007 in Civil Appeal No.S-339/07 that a writ petition is not maintainable against a private school as it is not a 'State' within the meaning of Article 12 of the Constitution of India. It is stated that in the said decision, the Hon'ble Supreme Court has upheld the judgment of the Full Bench of the Allahabad High Court that held that the D.P.S. School is not a 'State' as it is a private school, imparting the course approved by the C.B.S.E. It is stated that the Hon'ble Supreme Court has further held that the appropriate remedy for the teachers, whose services are terminated, would be to file a civil suit for damages.

On a reading of the order of the Hon'ble Supreme Court in Civil Appeal No.S-339/07, we uphold the preliminary objection raised on behalf of the respondent nos.1 and 2. We decline to entertain the writ petition against the order of dismissal of the petitioner from service. The petitioner is, however, free to take up appropriate proceedings. The writ petition is disposed of with no order as to costs.

The points raised in the petition are kept open.

JUDGE

JUDGE

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