

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 WRIT PETITION NO. 896 OF 2017

NAGRAJ MALLESHAM SIDDAMSHETTY

VERSUS

**Dy. DIRECTOR OF EDUCATION, LATUR
& ANR.**

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Mr. R.R.Mantri h/f Mr.S.R.Choukidar,
Advocate for Petitioner.

Mr.S.P.Tiwari, A.G.P. for R - 1.

Mr.N.S.Kadam, Advocate for R - 2.

Mr.R.G.Shirsat, Advocate for R - 4.

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CORAM : P.R.BORA, J.

DATE : 28th APRIL, 2017

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ORDER :

1. The only grievance which needs to be considered in the present petition, as has been made by the petitioner, that without giving him proper opportunity of hearing and without making him available the copy of the application submitted by present respondent No. 3, the Dy. Director of Education has decided the matter. The Dy. Director has filed affidavit in reply, wherein this fact

has not been denied by him. Along with the affidavit in reply the copy of application submitted by respondent No. 3 is annexed and the same is now received to the petitioner. Learned counsel has, therefore, prayed for remitting the matter back to the Dy. Director of Education to hear the matter afresh and pass the necessary order by permitting the present petitioner to submit his Say to the application filed by respondent No. 3. Mr. Mantri has strongly opposed for remitting the matter back. He submits that the fate of the matter ultimately depends upon the interpretation of the legal provisions for which there is no necessity of remitting the matter back.

2. After having carefully considered the submissions advanced by the learned counsel for the respective parties, it appears to me that very basic requirement has not been fulfilled in the matter. The Dy. Director of Education must have supplied the copy of application submitted by respondent No. 3 along with its annexures to the present petitioner and should have given an opportunity to submit his say to the said application and to file on record the documents, if any, in support of his contentions. Since this has not been followed, the decision rendered by the Dy. Director of Education stands

vitiated. I am, therefore, inclined to remit back the matter to the Dy. Director of Education to decide it afresh. It is brought to my notice that presently there is in-charge Dy. Director of Education and as such the said authority needs to be directed to decide the matter afresh. In view of the above, following order is passed.

[i] The impugned orders dated 12/01/2017 and 19/01/2017 are quashed and set aside.

[ii] The matter is remitted back to the in-charge Dy. Director of Education to decide it afresh as expeditiously as possible and preferably within 15 days after appearance of the parties before him.

[iii] The parties shall appear before the in-charge Dy. Director of Education on 03/05/2017 and get abide by the instructions which may be imparted by the said authority.

[iv] Learned A.G.P. shall made available the copy of application filed by respondent No. 3 along with annexures annexed thereto to the present petitioner and all concern before 03/05/2017.

[v] It is clarified that this Court has not expressed any opinion as regards to the merits of the matter and the in-charge Dy. Director of Education shall decide the matter afresh in accordance with law on its own merit. The contentions raised by the parties in the petition before this Court are kept open to be raised before the in-charge Dy. Director of Education.

[vi] Writ Petition stands allowed in the aforesaid terms.

[P.R.BORA, J.]