

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

WRIT PETITION NO. 9280 OF 2016

Hamid s/o. Jabbar Khan

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.S.B. Bhosale, Advocate for the petitioner.

Mr.S.B. Pulkundwar, A.G.P. for respondent/State.

Mr.R.D. Raut, Advocate for respondent Nos.5 & 7.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 03.10.2017

P.C. :-

1. Mr.Bhosale, learned Counsel submits that subsequently the petitioner has been reinstated, as such the prayer with regard to suspension does not survive. Learned Counsel submits that the petitioner has made complaint with respondent No.4 regarding illegal encroachment on the school land. According to learned Counsel, time to time complaints have been given to police station, however, no action has been taken upon it. Mr. Raut, learned Counsel for Zilla Parishad submits that the Education Officer has filed his affidavit. The encroachment is not yet removed. The photographs showing encroachment have been filed on record.

2. Learned A.G.P. submits that there are several litigations pending between the parties. Some sale deeds have been produced by the private persons. There is dispute with regard to location and measurement of the land in question. The Zilla Parishad has also not produced document of ownership and as the matter was of civil nature, further steps could not be taken.

3. If there are civil disputes and prohibitory orders of Civil Court are operating, certainly respondent No.4 cannot take further action in contravention of the orders of the Civil Court.

4. The Zilla Parishad may produce documents with respondent No.4 regarding clear title and also about the fact that no prohibitory orders are operating, then only further steps can be taken by respondent No.4. As far as payment of salary for the period the petitioner was under suspension is concerned, the petitioner has already given representation. Respondent No.7 shall take decision upon it within one month from today. It is submitted that the departmental enquiry is not yet concluded.

5. In case, no departmental enquiry is initiated, then the petitioner may make representation for reinstating after suspension at the same place and if no

departmental enquiry is pending, the representation made by the petitioner for posting at same place may be considered expeditiously, preferably within one months from today.

6. The writ petition is accordingly disposed of.
No costs.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]