

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

WRIT PETITION NO. 10391 OF 2016

Suresh Shivajirao Rode

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri H. P. Pawar, Advocate for the Petitioner.

Shri K. D. Mundhe, A.G.P. for the Respondent No. 1.

Shri S. P. Brahme, Advocate for the Respondent No. 2.

Shri S. V. Deshmukh, Advocate for Respondent Nos. 3 to 6 and 8.

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

DATE : 22ND NOVEMBER, 2017.

FINAL ORDER :

. It is stated that, the services of the petitioner are terminated under order dated 16.08.2016.

2. Mr. Pawar, the learned advocate for the petitioner submits that, even after the alleged termination order, the petitioner was continued and worked upto December 2016. Only because of the interim order in Writ Petition No. 11098 of 2016, the petitioner was refrained from discharging his duties. According to the learned counsel the body that had conducted enquiry was not in power and termination order is issued by an incompetent person.

There are two parallel managements and two change reports are pending of rival parties.

3. According to Mr. Brahme, the learned advocate for the respondent No. 2 even after termination of service of the present petitioner, the petitioner has drawn salary for four months. As such, the management had to approach this Court by filing Writ Petition No. 11098 of 2016. According to the learned counsel, there is only one management and only one change report is pending bearing Change Report No. 216 of 2014 and thereafter one another change report is pursuant to resolution for the post of President and Vice President inter changing their position. No illegality is committed. After detailed enquiry as per law the petitioner is terminated.

4. It appears that, the termination order is issued as against the petitioner who was working as Head Master on 16.08.2016. Whether the enquiry was properly conducted as per rules or not can be considered by the School Tribunal. The petitioner has a substantive remedy by way of an appeal before the School Tribunal U/Sec. 9 of the M. E. P. S. Act.

5. In view of the above, we dispose of the writ petition with liberty to the petitioner to avail the remedy before the School Tribunal against the order of his termination from service. In

that event, all contentions of respective parties are kept open. The Tribunal where the petitioner would file an appeal, shall consider the time spent in prosecuting present writ petition. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Nov. 17