

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10425 OF 2016

Subhash Martand Suryawanshi ... Petitioner
Vs.
The State of Maharashtra through Secretary,
Secondary Education Department and others ... Respondents

WITH
CIVIL APPLICATION NO.438 OF 2017 in W.P.NO.10425 OF 2016

Reshma Arjun Ranmode ... Applicant
Vs.
Subhash Martand Suryanshi ... Respondent

Mr. Sanjeev P. Kadam for Petitioner.
Ms K. P. Kulkarni, AGP for Respondents No.1 and 2-State.
Mr. Kalpesh U. Patil for Respondent No.3.
Mr. N. V. Bandiwadekar for Respondent No.4.
Mr. Meelan S. Topkar for Applicant.

CORAM : R. G. KETKAR, J.
DATE : JULY 18, 2017

P.C. :

Heard Mr. Kadam, learned Counsel for petitioner, Ms Kulkarni, learned AGP for respondents No.1 and 2-State, Mr. Patil, learned Counsel for respondent No.3, Mr. Bandiwadekar, learned Counsel for respondent No.4 and Mr. Topkar, learned Counsel for applicant at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 08.08.2016 passed by the respondent No.2, Education Officer (Secondary), Pune Zilla Parishad, Pune by which he has revoked the approval given to the petitioner's appointment as Head Master in the school run by the third respondent herein.

3. Civil Application No.438 of 2017 is filed by Ms Reshma Arjun Ranmode, claiming to be President of the third respondent, for impleadment as respondent No.5 in this Petition. As I am proposing to set aside the impugned order on the short count that petitioner was not heard before passing the impugned order, Civil Application is allowed in terms of prayer clause (a) with no order as to costs. Amendment shall be carried out forthwith.

4. The controversy in this Petition is as regards the authority given to the petitioner. Petitioner and the third respondent submitted that after the retirement of Head Mistress Alka Suresh Patil, petitioner being the senior most Assistant Teacher was promoted to the post of Head Master by order dated 01.07.2015. As against this, it is the case of the fourth respondent that petitioner was only authorized to sign the pay-bills as also record of the school. The petitioner was appointed as in-charge Head Master for a temporary period from 01.06.2015 to 30.08.2015.

5. Rule. Learned Counsel for respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

6. A perusal of the impugned order shows that though reference No.3 records that hearing took place before the second respondent on 06.08.2016, it is not disputed that the petitioner was not heard. In view thereof, on this short count alone, the impugned order dated 08.08.2016 passed by the respondent No.2 deserves to be set aside and is accordingly set aside. Parties, including the applicant (added respondent No.5) agree that they will appear before the 2nd respondent on 31.07.2017 at 11.00 a.m. and for that purpose no fresh notice be issued

to them. Respondent No.2 shall decide the proceedings within four weeks from the appearance of the parties in accordance with law. All contentions of the parties on merits are expressly kept open. Till such time the decision is taken and for the period of two weeks thereafter, the interim arrangement authorizing petitioner to sign pay-bills and the school records shall continue to remain in force. Rule is made absolute in the aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)

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