

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10913 OF 2016

Mr. Samarth Anil Lonkar ..Petitioner

Vs.

Prerana Vanita Mandal Nityanand

Society and Others ..Respondents

Mr. Subhash Langote i/b Mr. V. A. Madane, for the Petitioner.

Mr. Pramod Kathane, Mr. Santosh Sabnis, for Respondent
Nos.1 and 2.

Mr.S. B. Kalel, AGP, for Respondent Nos.4 to 7 State.

Mr. Shaikh Mushtaq Mohammed, Education Officer
(Primary) Z. P. Pune, for Respondent No.4 present.

CORAM :- **SHANTANU S. KEMKAR &
B.P.COLABAWALLA, JJ.**

DATE :- **APRIL 5, 2017.**

P. C.:

During the pendency of the Petition in view of the
subsequent developments, the Petitioner has filed rejoinder
dated 2nd April, 2017 stating therein as under:-

“12: I say that on 1/4/2017, I was unnecessarily dragged into a Police complaint. A couple of months ago, one Teacher from Secondary School of Respondent No.1 had threatened me with life. I had made a Complaint to Head Master vide my Application dated 03/01/2017. As a result now, I do not find it safe to be in the School of the Respondent Nos.1 and 2 any more. Without prejudice to my other legal rights and contentions and the contentions raised by me in the present Petition, I say that I am ready and willing to get absorbed in Nirmalabai Haribhau Deshpande Vidyalaya, Baramati, run and managed by the Maharashtra Education Society, Pune. I say that since I belong to OBC Category. According to my knowledge the said post is reserved for OBC Category.”

2 The learned counsel for the Petitioner submits that this Petition may be disposed off with liberty to the Petitioner to submit a representation in regard to the Petitioner's willingness to serve in Nirmalabai Haribhau Deshpande Vidyalaya, Baramati run and managed by the Maharashtra Education Society, Pune or at Sabanis Primary School, at Junnar.

3 Having regard to the stand taken in the rejoinder filed by the Petitioner, we are of the view that in view of the statements in paragraph 12 of the rejoinder affidavit, cause of action of filing this Petition does not survive. However, it is made clear that the allegation made in the rejoinder in paragraph no.12 is disputed by the learned counsel for Respondent Nos.1 and 2. Be that as it may.

4 We grant liberty to the Petitioner to submit a detailed representation in regard to the places where the Petitioner is willing to absorb. The representation to be made by the Petitioner within a week. The Education Officer-Respondent No.3 who is present in-person to decide the said representation within 10 days from the date of its receipt. While deciding the Petitioner's representation and giving the place for posting, the Education Officer shall also take into consideration the places as may be shown by the Petitioner for his absorption.

5 Needless to say that the Education Officer to

decide the Petitioner's representation keeping in view the exigency and also in accordance with law. Till the matter is decided by the Education Officer, interim order passed by this Court earlier shall remain operative.

6 The Petition stands disposed of.

(B. P. COLABAWALLA, J.) (SHANTANU S. KEMKAR, J.)