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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13283 OF 2017**

Shree Yashwant Shikshan Prasarak Mandal & Anr... Petitioners.

V/s

The Education Officer (Secondary)

Zilla Parishad, Kolhapur and Ors.

.... Respondents.

Mr. Meelan Topkar, Advocate for the Petitioners.

Mr. C.P. Yadav, AGP for Respondent No.1.

**CORAM: B. R. GAVAI &
B. P. COLABAWALLA, JJ.**

DATE: 22nd December, 2017

P.C.:-

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard by consent of parties.

2] It is unfortunate that, the Petitioner even after having succeeded in the first round of litigation, was required to again approach this Court by way of the present Writ Petition, on account of illegal stand taken by Respondent No.1.

3] Petitioner had approached this Court, challenging the order passed by Respondent No.1 dated 17/7/2012, thereby directing one post of Headmaster to be reserved. This Court in its order dated 6/6/2017 passed in Writ Petition No. 8472 of 2012 has referred to the Judgment of this Court in the case of *New English High School*

*Association and Ors. vs. Baldevl Fakira Ade and Anr.*¹ in which after considering the relevant Rule, this Court came to the conclusion that since the reservation provided was 24%, unless four number of posts are available in a particular cadre, reservation for Headmaster would not be permissible.

4] Now, in view of change in Rules, since the reservation for the post of Headmaster is 33%, unless there are three posts of Headmaster available, reservation cannot be insisted upon. Admittedly, Petitioner No.1 has only two schools and, as such, the reservation could not have been insisted upon. This Court vide order dated 6/6/2017 passed in Writ Petition No.8472 of 2012, had quashed and set aside the impugned order and held that Respondent – Education Officer could not insist upon the reservation of one post of Headmaster for backward class. Though the order was passed by this Court on 6/6/2017, Respondent No.1 addressed a communication to Respondent No.2, observing therein that, effect of the order passed by this Court would be de-reserving of the post of the Headmaster. Respondent No.1 had an audacity to state in the said communication that the judgment and order passed by this Court is contrary to the policy decision of the State Government.

5] No authority of the State Government or Central Government can sit in appeal over the judgment delivered by this Court and if Respondent No.1 was aggrieved by the order passed by this Court then

1 2007(1) Bom.C.R. 6

the only course available to him was to challenge the order passed by this Court before the Apex Court. We have no manner of doubt that Respondent No.1, by addressing the said letter, has committed contempt of this Court.

6] We were therefore required to issue notice to Respondent No.1, calling upon him to show cause as to why action should not be taken against him for committing contempt of this Court.

7] Mr. Kiran Anant Lohar, presently working as an Education Officer (Secondary), has filed an affidavit. He has tendered his unconditional apology. Having realized the mistake, he has issued an order dated 21/12/2017, thereby granting approval to the promotion of Petitioner No.2 as Headmaster. In that view of the matter, though we find that the act of Respondent No.2 is contemptuous in nature, we do not propose to proceed further and accept his unconditional apology.

8] However, it is warned that, hereinafter, Respondent No.1 should be cautious and careful while dealing with the court matters and while addressing communication, exercise restraint in the language used.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)