

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.713 OF 2018

Ashwini d/o Anilrao Lathkar
Age-Major, Occu:Education Officer,
Primary, Aurangabad,
R/o-Tirupati Park, N-4, CIDCO,
Aurangabad, Tq. & Dist-Aurangabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Gram Vikas Department,
Mantralaya, Mumbai,
- 2) Zilla Parishad, Aurangabad,
Zilla Parishad Office, Aurangabad,
- 3) The Chief Executive Officer,
Zilla Parishad, Aurangabad,
- 4) R.B. Wani,
Block Education Officer,
Primary, Panchayat Samiti,
Phulambri, Tq-Phulambri,
Dist-Aurangabad.

...RESPONDENTS

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Mr.Gaurav L. Deshpande Advocate for Petitioner.
Mr.S.Y. Mahajan, Additional G.P. for Respondent
No.1.

Ms.U.P. Kale-Wayal Advocate for Respondent
Nos.2 to 4

...

**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE : 14TH FEBRUARY, 2018

ORDER :

1. Heard learned counsel appearing for the Petitioner, learned Additional Government Pleader appearing for the State and learned counsel appearing for Respondent Nos.2 to 4..

2. This Petition is filed with following substantive prayers:

"B) The impugned order dated 15.01.2018 taking the charge granted to the petitioner of Education Officer Primary on 16.11.2017 may kindly be quashed and set aside.

C) The order dated 16.11.2017 of appointment of inquiry committee against the petitioner be declared null and void and may kindly be quashed

and set aside."

3. So far order dated 15th January, 2018 which is impugned in this Petition is concerned, the same has been worked out and charge of the Petitioner has been withdrawn. Therefore the said prayer cannot be acceded to.

4. So far as relief claimed in prayer clause C) is concerned, learned counsel appearing for the Petitioner submits that Mr. Wani who was appointed as enquiry officer, from whom only charge was withdrawn and the same was given to the Petitioner, and therefore enquiry by such person whose charge was withdrawn and given to the Petitioner, was pre-determined and with grudge in mind and therefore the same stands vitiated. He further submits that principles of natural justice were not followed, in as much as no opportunity was given to the Petitioner before such enquiry was initiated. Learned counsel invites our

attention to various documents and submits that it is only pursuant to the directions issued by the High Court and directions given by the Director of Education, the continuation letter was issued in favour of eleven employees whose services were discontinued. He further invites our attention to the pleadings in the Petition, grounds taken therein, annexures thereto and the Judgment of the Supreme Court in the case of T.S. Subramanian vs. Union of India and others¹ and the Judgment in Civil Appeal No.7600 of 2014 (Allahabad Bank and others vs. Krishna Narayan Tewari), and submits that the appointment of the enquiry committee and also the enquiry report deserves to be quashed and set aside.

5. On the other hand, learned counsel appearing for Respondent Nos.2 to 4 invites our attention to the averments in the reply and also annexures thereto. She submits that as soon as

¹ 2013 AIR SCW 6277

charge was given to the Petitioner, within couple of days, without taking approval from the superiors, the Petitioner passed an order on 9th November, 2017 thereby restoring the services of eleven employees. She submits that the said employees were not the petitioners before the High Court. She further submits that without ascertaining whether such units for physically disabled were available or not in the respective schools, the order dated 9th November, 2017 was passed. She submits that Standing Committee of the Zilla Parishad taking recourse of Section 109 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, has appointed the enquiry committee. The relevant documents were submitted before the enquiry committee during the course of enquiry, which was discreet enquiry. The report has been submitted to the Chief Executive Officer of the Zilla Parishad. It is submitted that the Chief Executive Officer has submitted his report to the Commissioner of Education, Pune requesting

for initiating the departmental enquiry against the Petitioner.

6. We have considered the submissions of the counsel appearing for the Petitioner and respective Respondents. As already observed, relief in terms of prayer clause "B)" cannot be granted. In prayer clause "C)" there is prayer to set aside the appointment of enquiry committee. In our opinion, the Standing Committee of the Zilla Parishad has authority to appoint such enquiry committee and therefore an appointment of such enquiry committee cannot be set aside. Moreover the enquiry committee has enquired into the matter and discreet enquiry has been complete. It is only after the Commissioner of Education or the Director of Education grants permission to the Zilla Parishad to initiate the departmental enquiry against the Petitioner, notice will be issued to the Petitioner. Once such notice is received, the Petitioner will get opportunity to

defend herself.

7. Taking overall view of the matter, in our opinion, no case is made out to invoke extraordinary jurisdiction. The Petition is devoid of merits. Hence for the reasons stated herein above, the Writ Petition stands rejected.

[S.M. GAVHANE, J.]

asb/FEB18

[S.S. SHINDE, J.]