

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 7319 OF 2018

MAHARASHTRA RAJYA PRATHMIK SHIKSHAK SANGH THROUGH ITS
AHMEDNAGAR DISTRICT PRESIDENT

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S.S. Thombre

Advocate for Respondents : Mr. Alok Sharma

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CORAM : R. M. BORDE & ARUN M. DHAVALA, JJ.

Date: July 17, 2018

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PER COURT :-

1 Heard.

2 The petitioner is praying for issuance of directions, restraining the respondent - Election Commission from compelling the teachers in the State to function as Booth Level Officers and further restraining them from taking any action against the teachers on account of their refusal to perform the assigned election duty.

3 The issue raised in the instant petition is no more *res-integra* and is covered by the decision rendered by the Supreme Court in the matter of ***Election Commission of India versus St. Marys School & others*** (2008 AIR SC 655). In paragraph No.32 of the Judgment, the Supreme Court has observed thus:

" 32. We would, however, notice that the Election Commission before us also categorically stated that as far as possible teachers would be put on election roll revision works on holidays, non-teaching days and non-

teaching hours; whereas non-teaching staff be put on duty any time. We, therefore, direct that all teaching staff shall be put on the duties of roll revisions and election works on holidays and non-teaching days. Teachers should not ordinarily be put on duty on teaching days and within teaching hours. Non-teaching staff, however, may be put on such duties on any day or at any time, if permissible in law. "

4 Counsel appearing for the Election Commission of India, on instructions states that the Election Commission of India is bound by the directives issued by the Supreme Court and any deviation there from would be impermissible.

5 In view of the statement made and considering the directives issued by the Supreme Court of India quoted above, this petition is disposed of.

6 So far as the criminal prosecution against petitioner Mr. Sanjay Mohan Shelke is concerned, learned counsel appearing for the Election Commission of India states that, since the petitioner has already resumed duties, no criminal prosecution is contemplated against him.

(A.M. DHAVALÉ, J)

(R.M. BORDE, J)