

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9999 OF 2017

Manik Thakaru Pawar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri. R.D. Biradar, Advocate for Petitioner.

Shri. R.V. Dasalkar, A.G.P. for Respondent Nos. 1 to 4.

Shri. Nitin B. Ghute, Advocate for Respondent No. 6.

Shri. A.N. Sabnis, Advocate h/f Shri. V. D. Gunale, Advocate for the Respondent No. 7.

WITH

WRIT PETITION NO. 6857 OF 2017

Chakrawarti Ashok Shikshan Prasarak Mandal

Through its Secretary,

S.H. Satpute .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri. A.N. Sabnis, Advocate h/f Shri. V.D. Gunale, Advocate for petitioner.
Shri. R.V. Dasalkar, A.G.P. for Respondent Nos. 1 to 3.
Shri. R.D. Biradar, Advocate for Respondent No. 5.

**CORAM : S.V. GANGAPURWALA AND
ARUN M. DHAVALA, JJ.**
DATED : 10th January, 2018

PER COURT:

. In Writ Petition No. 6857 of 2017 the order passed by the Director of Education (Primary) dated 02.05.2017 is assailed. In Writ Petition No. 9999 of 2017 the order passed by Respondent No. 2 and communication issued by Respondent No. 5 is assailed.

2. The order passed by the Director of Education (Primary) is set aside by the State Government. The Director of Education under its order dated 02.05.2017 had passed an order directing reinstatement and setting aside termination order.

3. We have heard Mr. Biradar, the learned advocate for the petitioner in Writ Petition No. 9999 of 2017 and Mr. Sabnis, the learned advocate for the petitioner in Writ Petition No. 6857 of 2017.

4. The Deputy Director of Education in his observations purported to be dated 21.02.2017 had observed that as against the termination, the employee has to approach to the School Tribunal. Subsequently, the Director of Education passed an order directing his reinstatement. The order of the Director of Education is set aside by the Government under its order dated 19.07.2017.

5. There is a dispute with regard to the status of the person passing the order of termination of the employee as Secretary. The letter dated 04.10.2016 issued under signature of the Superintendent, Office of the Charity Commissioner, Latur states that, there are change reports bearing Nos. 415 of 2013 and 72 of 2014 pending and the enquiry is under progress. Nothing can be said about the legality of the members.

6. It would have been appropriate if the employee would have approached the appropriate forum in this regard. we find the Director as well as the State Government have exercised the powers not vested with them. Both the orders assails in the writ petitions appears to be *void ab-initio* and without jurisdiction.

7. Considering the above we quash and set aside the orders impugned

in the respective writ petitions.

8. The petitioner in Writ Petition No. 9999 of 2017 is at liberty to take recourse to the remedy before appropriate forum. In Writ Petition No. 9999 of 2017 filed by the employee, this court by interim order had stayed the order of the State Government and the impugned communications therein. The said protection is extended for a period of fifteen (15) days from today. Needless to state, on lapse of fifteen days, the said protection shall come to an end. The writ petitions accordingly are disposed of. No costs.

8. Parties to act on authenticate copy.

[ARUN M. DHAVALÉ, J.]

ass/wp 9999.17

[S. V. GANGAPURWALA, J.]