

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

926 WRIT PETITION NO. 9144 OF 2013
WITH CA/14796/2013 IN WP/9144/2013 WITH CA/1765/2014 IN WP/9144/2013

SUDHAKAR JAGANNATH POTDAR

VERSUS

- 1] DY DIRECTOR OF EDUCATION, DIVISION LATUR
- 2] EDUCATION OFFICER (PRIMARY), ZILLA PARISHAD, LATUR
- 3] SHREE DATTAKRUPA SHIKSHAN SANSTHA, LATUR, THROUGH
ADMINISTRATIVE COMMITTEE,
- 4] SADANAND VIDYALAYA, THROUGH ITS ADMINISTRATIVE COMMITTEE,
LATUR

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Advocate for Petitioner : Mr. Khandare N.B. And M P Tripathi

AGP for Respondent no.1 : Mr. M.M.Nerlikar

Advocate for Respondent no.2 : Mr. Tandale P.R.

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CORAM : T.V.NALAWADE

AND

K.L.WADANE, JJ.

DATED : 8th March, 2018

JUDGMENT (Per T.V.Nalawade, J.)

Rule. Rule returnable forthwith. With the consent of the learned counsel for parties, the petition is taken up for final hearing.

2. The petition is filed for issue of writ of certiorari for quashing the order passed by the Deputy Director on 31.10.2013 against the petitioner. The Deputy Director has reverted the present petitioner from the post of Head Master to the post of Teacher.

3. Heard Mr. Khandare, learned counsel for the petitioner, Mr. Nerlikar, learned A.G.P. for respondent no.1 and Mr. P.R.Tandale, learned counsel for respondent no.2.

4. There are two Civil Applications filed by so called two managements, who claim to be entitled to run the institution. In view of the order passed by this Court in Writ Petition No. 4994 of 2012, dated 9.8.2012, the Administrator came to be appointed and so this Court is not allowing the Civil Applications. Further there is no need to hear them in view of nature of controversy.

5. It appears that in Writ Petition NO. 4994 of 2012, this Court gave directions to the Deputy Director as follows : -

“(E) The Deputy Director of Education, Latur shall pass appropriate orders on merits, considering the record and provisions of law, in respect of the issue as to who shall be the Head Master of the school. The Deputy Director of Education is entitled to hear

necessary parties including the Respondent No.4, before passing such order. The Deputy Director of Education, Latur, shall pass a brief, reasoned order, within four weeks from today."

6. It appears that by order dated 31.10.2013, the Deputy Director reverted the petitioner from the post of Head Master to the post of Teacher.

7. Learned A.G.P. submitted that due to the afore said order passed by this Court, such action was taken by the Deputy Director. Admittedly, no departmental inquiry, as provided by Rules 28, 29, 31, 36 and 37 read together of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 was conducted against the petitioner.

8. The submissions made show that there were serious allegations against the petitioner and two crimes for offences punishable under Sections 420, 467, 468, 409, etc. of the Indian Penal Code were registered.

9. The penalties provided are classified under the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 in to two categories, like minor and major penalties. Reduction in rank or the reversion to lower post amounts to major penalty. Major penalty can be imposed only after conducting departmental inquiry as provided in afore said Rules. If the management wants to see that such person is not allowed to work on the post of Head Master, then there is other procedure available to the management. In anticipation of starting of departmental inquiry, orders like suspension also can be made. This is within the discretion of the disciplinary authority.

10. It appears that for some period the petitioner was under suspension, but that suspension order was not approved by the Deputy Director. Such submission was made by the Education Officer. Even if, in such cases, the power vests with the disciplinary authority to

take such action if it is not desirable to allow an employee to work on a particular post, but that does not mean that without following due procedure given in the afore said Rules, an employee can be reverted to lower post.

11. Thus, the necessary procedure, which is mandatory in nature for imposing major penalty was not followed by the Deputy Director and the order passed by the Deputy Director cannot sustain in law. It can be said that the Deputy Director was misled due to the order made by this Court, which must have been made due to over sight.

12. In the result, following order.

The petition is allowed in terms of prayer clause (B) in para 22 of this Petition.

Rule is made absolute in afore said terms.

Civil Applications stand disposed of.

(K.L.WADANE, J.)

(T.V.NALAWADE, J.)

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