

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10320 OF 2013

Vimal D/o Vithalrao Bansode,
Age 41 years, Occu.: Service,
R/o Savitribai Phule Mukhbadhir
Residential School, Jatwada Road,
Harsul, Aurangabad
District Aurangabad

.. Petitioner

Versus

- 1] The State of Maharashtra
Through the Secretary
Social Welfare Department,
Mantralaya, Mumbai
- 2] The Commissioner for person with of
Disabilities, Maharashtra State,
3, Church Road, Pune Dist. Pune
- 3] The Regional Deputy Commissioner
of Social Welfare Department,
Aurangabad
- 4] The Chief Executive Officer
Zilla Parishad Aurangabad
Dist. Aurangabad
- 5] The District Social Welfare Officer,
Zilla Parishad Aurangabad
Dist. Aurangabad
- 6] Ayub Mohammad Majjid Khan,
President, Marathwada Gramin Apang
Vikas Mandal, Dawarwadi,
Tq. Paithan,
Age 42 years, Occu. Agri.,
Plot No. 26 (Plot), Near Water Tank,
Dawarwadi, Tq. Paithan, Dist. Aurangabad

.. Respondents

WITH
CONTEMPT PETITION NO. 72 OF 2015
IN
WRIT PETITION NO. 10320 OF 2013

Vimal D/o Vithalrao Bansode,
Age 42 years, Occu. Service,
R/o Savitribai Phule Mukhbadhir,
Residential School, Jatwada Road,
Harsul, Aurangabad
District Aurangabad

.. Petitioner

Versus

- 1] Sanjay Kadam
I/C. District Social Welfare Officer,
Zilla Parishad Aurangabad
Dist. Aurangabad
- 2] Samadhan Ingle
I/c. District Social Welfare Officer
Zilla Parishad Aurangabad
Dist. Aurangabad copy to be served
through the Secretary, Social Welfare
Department, Mantralaya, Mumbai

.. Respondents

WITH
CIVIL APPLICATION NO. 13925 OF 2017 IN
WRIT PETITION NO. 10320 OF 2013

(Rajkumar Kisanrao Thete and anr.
Vs.
Vimal Vithalrao Bansode and ors.)

AND
CIVIL APPLICATION NO. 11836 OF 2017 IN
WRIT PETITION NO. 10320 OF 2013

(Baburao Bhgaji Pandit Vs.
Vimal Vithalrao Bansode and ors.)

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Mr. S.M. Vibhute, Advocate for petitioner in Writ Petition and
Contempt Petition
Mr. Ajinkya Deshmukh, Advocate h/f Mr. A.V. Hon, Advocate for
respondent no.6

Mr. S.N. Morampalle, AGP for respondent – State
Mr. P.V. Barde, Advocate for applicant in CA/11836/2017
Respondents no. 4 and 5 served - absent

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CORAM : SUNIL P. DESHMUKH, J.
DATE : 10-10-2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally, by consent, including one in civil application no. 11836 of 2017, who is seeking to intervene in present matter.

2. Succinctly referred to petitioner's case is, she had been appointed as Incharge Headmaster of school run by respondent no. 6 - institution since May, 2013. Respondent no. 5 - district social welfare officer had accorded approval to her said appointment. It is being contended on behalf of petitioner, however, there had been two groups formed in the members of management of respondent no. 6 and they were fighting for snatching powers and controlling administration of institution. She being from a reserved category and she being working as Incharge Headmaster was not digested by a section of employees. Under the cover of one Raju Dehade, certain complaints were initiated against petitioner. Petitioner denies all allegations in those complaints. In the scenario, respondent no. 5, according to petitioner, had purportedly issued notice / communication to

respondent no. 6 dated 07-11-2013, directing respondent no. 6 to remove charge of the post of Headmaster from the petitioner and to take disciplinary action against her.

3. Subsequently, respondent no. 5 purported to issue an order dated 16-12-2013 referring to that earlier communications were not being acted upon, withdrawing the charge of the post of Headmaster from petitioner and giving the same to one Mr. K.P. Khairnar and further directing that until disciplinary action is taken against her, salary bills submitted under her signature would not be processed. Alongside it was communicated that suspension of two other employees Mr. A.R. Deshmukh and Smt. U.H. Shinde has been revoked.

4. Consequent to order dated 16th December, 2013, a communication had been issued in the name of petitioner on 20th December, 2013 communicating her that with the revocation of suspension of two senior persons to her, approval to her appointment as Incharge Headmistress has also been cancelled and the charge was directed to be given to Mr. K.P. Khairnar who had been the senior-most employee.

5. Aggrieved by aforesaid, the petitioner has filed present petition and this court under its interim order dated 23-12-2013 had granted interim relief protecting interest of petitioner.

6. It appears that in the meanwhile, some developments have taken place. Situation has got further deteriorated and school had been rather paralyzed and defunct. In the interregnum, it appears that the management has also transferred petitioner to some other place, which order, learned counsel for petitioner states that has been separately challenged.

7. While the factual situation is as aforesaid, position pursuant to provisions under Code For Special Schools For Handicapped Persons, 1997 has been fairly conceded to by learned counsel for appearing parties that in the cases of such schools where students are 50 or less, there would not be any post of Headmaster and the work of Headmaster will have be administered by Incharge Headmaster, to be occupied by the senior-most special teacher.

8. In the present case, indisputably, Mr. Khairnar is senior to petitioner. In the circumstances, it appears that challenge to cancellation of approval to her appointment as Incharge Headmaster would lose its significance. Petitioner may not be able to get benefit from the writ petition.

9. Rule is discharged. Interim relief gets vacated incidentally. Writ petition is disposed of.

10. In view of aforesaid, intervention application does not carry forward any purpose, however, a mention has to be made that mentioning counsel for intervenor has taken special efforts in disposal of the petition.

11. Grievance made in contempt petition no. 72 of 2015 subsequently, since being mended, contempt petition as well is disposed of.

12. In view of disposal of writ petition, civil applications no. 13925 of 2017 and 11836 of 2017, stand disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/