

IN THE HIGH COURT OF BOMBAY AT GOA

***WRIT PETITION NO. 57 OF 2018
WITH
MISCELLANEOUS APPLICATION NO. 244 OF 2018***

Shrikant S. Vengurlekar.,

... Petitioner

Versus

Virnoda Education Society's Vikas
High School, Thr. Its
Chairman and 2 Ors.,

... Respondents

Mr. Vallabh D. Pangam, Advocate for the Petitioner.

Mr. S. S. Kantak, Senior Advocate with Mr. Abhijit Gosavi, Advocate
for Respondent no. 1.

Mr. Dattaprasad Lawande, Advocate General with Ms. Purna
Bhandari, Additional Government Advocate for Respondent nos. 2
and 3.

***Coram:- N. M. JAMDAR &
PRITHVIRAJ K. CHAVAN, JJ.***

Date:- 2 April 2018

P. C.

Heard Shri Vallabh D. Pangam, learned Counsel for the
Petitioner, Shri S. S. Kantak, learned Senior Counsel for Respondent
no. 1 and Shri Dattaprasad Lawande, learned Advocate General for

Respondent nos. 2 and 3.

2. By this Petition, a teacher working in the Respondent no. 1 Educational institute, is seeking in essence, examination of the merits of his case pending before the Director of Education for granting approval under Rule 97 of the Goa Daman and Diu School Education Rules of 1986 before a major penalty is imposed by the Respondent educational institute. The Director has given hearing to the parties and the decision is awaited. If any major penalty is imposed after approval, Petitioner has a remedy of appeal to the Tribunal. We have to consider if any interference is warranted at this stage.

2. The Respondent no. 1 -Institute, after holding an inquiry, has proposed a major penalty on the Petitioner. It appears that for extension of the suspension period, the Respondent no. 1 - Institute had approached the Director of Education as provided under the Goa Daman and Diu School Education Act of 1984 and extensions were sought. It is the grievance of the Petitioner that the extensions have been granted incorrectly and the Director of Education has not complied with the order passed by this Court in Writ Petition no. 801 of 2016. According to the learned Counsel for the Petitioner, in view

of this position, this Court should interfere even at this stage as the entire proceedings are illegal.

3. Learned Senior Advocate for the Respondent no. 1 Educational Institute and the learned Advocate General have brought to our notice the provisions of Rule 97 of the Rules of 1986 and Section 22 of the Goa Daman and Diu School Education Act of 1984. According to the learned Counsel, the Petition is premature as the Director of Education is yet to pass any order and if the order granting approval is passed by the Director and any penalty is imposed, the Petitioner has remedy of appeal to the Tribunal.

4. We have considered the provisions relied upon by the learned Senior Advocate for the Respondent no. 1 and the learned Advocate General. The Rule 97 provides for approval of the Director of Education and also appeal to the Tribunal against the order imposing major penalty. As on date, the Director of Education has not taken decision to grant approval or otherwise. We do not find any reason why at this stage we should prohibit the Director of Education from taking any decision as he has been conferred with the authority to grant or reject approval as per the Rules. If the approval is granted and action is taken, remedy of appeal is provided. The contention of

the Petitioner that he is being wrongly dismissed and the actions of the Respondent-Educational Institute are incorrect in law, can always be urged by the Petitioner in the appeal before the Tribunal. This position is not disputed by the Respondents. The Petitioner has also his remedy open in respect of the order passed by the Director.

5. Upon query to the learned Senior Advocate for the Respondent no. 1 as to whether the Respondent no. 1 would immediately impose a major penalty, if approval is granted, the learned Senior Advocate submitted that, in the facts of this case, the Respondent no. 1, if approval is granted, will proceed to impose major penalty after eight working days of the grant of approval, if so granted.

6. In view of this position, we do not find that interference in exercise of writ jurisdiction is warranted as the Petitioner can pursue his remedies available in law after the order is passed by the Director of Education. The statement of the learned Senior Counsel for the Respondent no. 1, which is accepted, gives sufficient time to the Petitioner to pursue the alternate remedy, if the order is against the Petitioner.

7. With these clarifications, keeping all contentions of the parties on merits open, the Writ Petition is disposed of.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.