

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 433 OF 2018

Francis Xavier R. Pereira & Anr. Petitioners.

Versus

State of Goa through Chief Secretary
and others. Respondents.

Mr. Vithal S. Naik, Advocate for the Petitioners.

Mr. Pradosh Dangui, Government Advocate for Respondents No.1
& 2.

Mr. Ryan da Piedade Menezes, Advocate for Respondents No.3 and
4.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 9 July 2018.

P.C.:

By this Petition, following prayers have been made by
the Petitioners :

- a) A writ in the nature of a quo warranto directing the Respondent No.3 to show legal authority to hold a public post of Headmaster and to quash and set aside such illegal appointment of the Respondent No.3.*
- b) A writ in the nature of a mandamus directing the Respondents to initiate disciplinary proceedings against the Respondent No.3 for playing such fraud in public institution and to recover the salary paid to him during*

such period of illegal appointment.

2. In the Petition, the Petitioners have described themselves as members of public. It is not stated in the Petition that the Petitioners are not connected with the Management. Therefore, we presume that the Petitioners have moved this Petition for *quo warrnato* in public interest.

3. After hearing the learned Counsel for the Petitioners, we had issued notices to the Respondents and the notices have been served on the respondents. Respondents No.4 and 5 are represented through their Counsel and it was informed that Respondent No.3 has resigned from the post on 23 April 2018. The statement is reiterated before us by the learned Counsel for Respondents No.4 and 5, today as well. We accept the said statement. Therefore, prayer clause (a) does not survive.

4. It is pointed out to us by the learned Counsel for the Respondents No.4 and 5 that the Deputy Director of Education is entrusted with the task of ensuring that the education in the aided schools is imparted as per law and he can consider the grievance made in the prayer clause (b). The Apex Court in the case of *Mrs. Ivy C. da Conceicao vs. State of Goa & ors.*,¹ has indicated as to how appointments are to be made in minority aided schools.

¹ (2017) 3 SCC 619

5. We are of the opinion that the Director of Education, in the light of what is laid down in the decision of the Apex Court and the relevant Rules and Regulations, will consider the issue raised in the prayer clause (b). It is open to the Director of Education to call for explanation from the Respondents No.4 and 5-Educational Institutions before proceeding to take action, if any, in respect of the prayer clause (b). It is also open to the Director to look into the material placed on record by the Petitioners by way of this Petition, before taking appropriate decision and consequent action thereupon if any.

6. The learned Counsel for the Petitioners then sought to orally urge that there may be further appointments being made in violation of the Rules, by the Respondents No.4 and 5. This is not the scope of the present Petition. The Director shall look into this grievance, if pointed out.

7. The Petition is disposed of in the above terms.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.