

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12973 OF 2018

Sau. Kanta Sunil Pawar

... Petitioner

Vs

1 The State of Maharashtra & Ors.

... Respondents

Mr. Sushil A. Inamdar for the Petitioner.

Mr. Vijay Killedar for the Respondent No.3..

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

SATURDAY, 22ND DECEMBER, 2018

P.C. :

1 On the previous occasion, we had passed the following
order :

“1 Let the learned AGP take instructions and particularly after the affidavit of respondent no. 3 tendered by Mr. Killedar. This affidavit, which is taken on record, discloses that respondent no. 3 has some grievance with regard to the impugned order. The Director of Education (Primary) ought to have taken into confidence everybody concerned with primary education, including respondent nos. 3 and 4 before arriving at the conclusion that a teacher is wrongly declared as surplus.

2 *Our anxiety is that the petitioner before us should obtain relief and on the complaint made by her. It is she who has suffered if at all and her grievance in regard thereto must be redressed by the public officials and it does not auger well for the system that two public officials have a battle which they projected before us.*

3 *Let, therefore, the Director of Education (Primary) give proper instructions to the learned AGP. He shall also ensure that the original records are produced before this court on the next date. Let Mr. Killedar, in the meanwhile, request the fourth respondent to find out the status of the school in question, namely, respondent no. 5 and report on the next date whether it is indeed closed down and this closure is in accordance with law or otherwise.*

4 *Stand over to 21st December, 2018 for "passing orders".*

2 This order, which is reproduced above, had followed a prior order of 19th November, 2018. In that order of 19th November, 2018, we had ensured that the petitioner can, if possible and permissible under the Rules, on impleadment of the fifth respondent, be again taken back in the service of that school.

3 However, our above reproduced order presented a peculiar situation which was noted by us. That, according to the affidavit presented by the third respondent, revealed that the said fifth respondent school may not be functional any longer.

4 In the above circumstances, we had passed this order and placed the matter today.

5 The original records have been perused by us with the assistance of Mr. Kalel, learned AGP.

6 It is discovered from that record that before the petitioner's entitlement was initially determined and later on cancelled, nobody had bothered to either put her to notice nor the statutory body or authority had bothered to intimate the third respondent as well. The compilation tendered by Mr. Killedar, learned advocate appearing for the petitioner, confirms the position that presently the fifth respondent school has been closed down by the Directorate of Primary Education vide order dated 25th November, 2017. The Annexure to this order specifically includes the name of the fifth respondent at Sr. No.

20. The said compilation is taken on record and marked “X” for identification.

7 In the above circumstances, all the parties agree that the Director of Education (Primary), State of Maharashtra, will give a personal hearing to all concerned on 3rd January, 2019, at Solapur. No individual notice be issued of this date of hearing. The venue of the hearing will be in the office of the Education Officer (Primary), Zilla Parishad, Solapur. At that hearing, let the petitioner as also the third respondent remain present with their records. The Director will then endeavour to conclude the hearing on that day and pass a speaking order within a period of fifteen (15) days from the date of conclusion of the hearing.

8 The Writ Petition is disposed of with the directions as issued above but by clarifying that this Court has not expressed any opinion on the rival contentions.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.