

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

WRIT PETITION NO.237 OF 2019

**VAIJANATH KALAPPA MISE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. S.S.Kulkarni, Advocate for the petitioner
Mr. V.S.Badakh, AGP for the respondent/State
Mrs. Yogita Kshirsagar (Thorat), Advocate for respondent
Nos.2 to 4.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 09.01.2019

P.C. :-

1. Heard learned counsel for the petitioner.
2. Learned counsel for the petitioner stated that the petition is filed on the premises of a show cause notice issued by the Education Officer (Primary) Zilla Parishad, Nanded. Perusal of the copy of the said notice which is placed on record at Exh.'H' show that the Education Officer found that in response to a process undertaken by way of on-line process certain applications were submitted seeking transfer. Then it was revealed in the scrutiny that the applicants have not submitted the true and relevant information to the authorities. The notice dated 12.12.2018 also refers to earlier notice dated 29.07.2018 and the notice further states that after issuing this notice dated 29.07.2018, the authority undertook the exercise of scrutiny of the documents. The notice further states that an enquiry was also conducted. The enquiry report was received. With this material, notice was issued to the petitioner asking the petitioner to submit his reply to notice within three days. The

petitioner submitted his reply on 15.12.2018.

2. Learned counsel for the petitioner further submitted that it is the apprehension of the petitioner that without considering reply only on the basis of a subsequent resolution of the Government dated 28.06.2018 the petitioner may be subjected to a coercive action.

3. Learned counsel for the petitioner also referred to the earlier resolution of the Government dealing with the aspect of inter district transfer of the teachers in Zilla Parishad. On going through the material placed on record, we could not find any material to show that subsequent to the notice dated 12.12.2018 and the reply submitted by the petitioner any order is passed by the authority. The submissions of the counsel was only an apprehension expressed by the petitioner. Now, with this material, we are unable to entertain the petition for the simple reason that this is only an apprehension of the petitioner and no order is passed by the Competent Authority at this stage. We have no reason to say that the authority would pass order only as the petitioner is apprehending. The authority certainly is expected to apply mind and pass ultimate orders. Thus, these facts prompt us to state that the petition is clearly pre-matured petition an under an erroneous impression of the petitioner. This being the position, we are not at all inclined to entertain the petition. The petition as such is dismissed at the threshold.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]