

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

WRIT PETITION NO. 8754 OF 2019

Gramin Shikshan Prasarak Mandal
Through Secretary Vijay Shivram
Pawar and another .. Petitioners

Versus

The State of Maharashtra through
Principal Secretary and others .. Respondents

Shri Hrishikesh A. Joshi, Advocate for Petitioners.
Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 to 3.
Shri U. R. Awate, Advocate h/f Shri S. B. Talekar, Advocate for
the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
AVINASH G. GHAROTE, JJ.
DATE : 04TH DECEMBER 2019.**

FINAL ORDER :

. Mr. Joshi, the learned advocate for petitioners submits that, the petitioner No. 2 is a post basic Ashram School. The respondent No. 4 was terminated from service after enquiry. The respondent No. 3 did not have jurisdiction to entertain the proceeding against the termination. The respondent No. 3 illegally directed reinstatement. The learned counsel relies on the judgment of this Court in a case of Suryakant S/o Sheshrao Panchal Vs. Vasantrao Naik Vimukta Jati, Bhatkya Jamati Aadarsh Prasarak Mandal and others reported in *2002(3) Mh. L. J. 659*.

2. Mr. Awate, the learned counsel for the respondent No. 4

submits that, after the order was passed by the Assistant Commissioner Social Welfare, Nanded directing reinstatement, the respondent No. 4 is reinstated in service. The appeal filed by the petitioners before the higher authority is also dismissed. These facts are suppressed by petitioners.

3. On 18th July, 2019, we had directed the parties to maintain *status quo*.

4. The issue that, the respondent No. 3 does not have any jurisdiction to deal with termination orders is no longer *res-integra* in view of the judgment of this Court in a case of Suryakant S/o Sheshrao Panchal Vs. Vasantrao Naik Vimukta Jati, Bhatkya Jamati Aadarsh Prasarak Mandal and others (supra).

5. In the light of the above, the impugned judgments are quashed and set aside.

6. The respondent No. 4 cannot be rendered without remedy. The same would be against the principle of *ubi jus ibi remedium*. The respondent No. 4 is entitled to avail the remedy of appeal before the School Tribunal. The time spent in prosecuting matters before wrong forums shall be considered by the School Tribunal while considering application for condonation of delay. For a period of two (02) weeks from today *status quo* order passed by this Court on 18th July 2019 shall be continued. On lapse of two (02) weeks, the order of *status quo* shall come to an end. All contentions of respective parties are kept open.

6. In view of the above, the writ petition is partly allowed. No costs.

7. Parties to act on authenticate copy.

[AVINASH G. GHAROTE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 19