

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

WRIT PETITION NO.10047 OF 2014

Bandu Dhrupatrao Dhakane,
Age; 42 years, Occupation;
Lab Attendant (suspended),
Resident of House No.
Sector-Q-02-04, Vitthal nagar,
N-2, CIDCO, Aurangabad.

PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary for
School Education and Sport
Department, Mantralaya,
Mumbai.
2. The Commissioner of Education,
Secondary and Higher Secondary
Education, Maharashtra State,
Pune.
3. The Director of Education,
Secondary and Higher Secondary
Education, Maharashtra State,
Pune.
4. The Deputy Director of Education,
Aurangabad Region, Aurangabad.
5. The Education Officer (Secondary),
Zilla Parishad, Aurangabad.
6. Bhagwan Pratishthan,
Through it's Chief Trustee
Sau. Padma w/o Vinayak Wagh,

"Sandeep", In front of
Labhkshetra Karyalaya, Garkheda
Road, Vishalnagar, Aurangabad.

7. The Head Master,
Bhagwan Pratisthan's
Shri Babanrao Dhakane,
Vidyalaya, Chikalthana,
Aurangabad.

RESPONDENTS

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Shri. R.N. Dhorde, Senior Counsel i/b Shri P.S.Dighe,
Advocate for Petitioner
Shri. M.M. Nerlikar, AGP for Respondent Nos.1 to 5
Shri. S.G. Rudrawar, Advocate for Respondent Nos.6 & 7
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**CORAM : T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date of Judgment : 23.01.2019

ORAL JUDGMENT (Per SUNIL K. KOTWAL, J]

Rule. Rule is made returnable forthwith.

2. By consent, heard both the sides for final disposal.

3. The ex-employee of respondent No. 7 School, has filed this Writ Petition for direction to respondent Nos. 1 to 5 to appoint the Administrator

on respondent No. 7 School, run by respondent No. 6 Institution and to quash the inquiry report dated 30.7.2014, submitted by respondent No. 5 Education Officer and to quash the communication dated 31.7.2014 that the Administrator need not be appointed on respondent No. 7 School.

4. Respondent No. 1 is the State of Maharashtra. Respondent No. 2 is the Commissioner of Education, respondent No. 3 is the Director of Education, respondent No. 4 is the Dy. Director of Education and respondent No. 5 is the Education Officer of Zilla Parishad, Aurangabad.

5. Heard Shri R.M. Dhorde, learned Senior Counsel for the petitioner, learned AGP for respondent Nos. 1 to 5 and Shri S.G. Rudrawar learned counsel for respondent Nos. 6 & 7.

6. The learned Senior Counsel for the petitioner submits that the petitioner and other

employees of the Institution had made various complaints to respondent Nos. 1 to 5 authorities, against respondent No. 6 Institution. In the result, inquiry was conducted by respondent No. 5, Education Officer. On the basis of that report, respondent No. 3 Director of Education, appointed Administrator on the Institution. Respondent No. 6 preferred appeal to respondent No. 1 State of Maharashtra. The order of appointment of Administrator was confirmed and the direction was given to the institution to remove the deficiencies within three months from the date of the order. The report of the Education Officer was called within next three months.

7. The learned Senior Counsel submits that respondent No. 1, directed respondent No. 5 Education Officer to hold fresh inquiry into the complaint. However, at that time, incorrect report was submitted by the Education Officer. In the result, respondent authorities declined to appoint Administrator on respondent No. 6, Institution.

8. Learned AGP for State submits that all deficiencies noticed by the Education Officer were subsequently complied by the Institution and there was no need to appoint the Administrator.

9. Learned counsel for respondent Nos. 6 and 7 pointed out that on account of misconduct by the petitioner, departmental inquiry was conducted against him and ultimately, he was dismissed from the service. He submits that as all deficiencies noticed by the Education Officer are removed by respondent Nos. 6 & 7, the Administrator cannot be appointed on the Institution. He has drawn our attention to the Government Resolution dated 15.10.2012.

10. We have gone through the Government Resolution dated 15.10.2012, which provides that the director of Education can appoint Administrator on the Educational Institutions, only after hearing the institute and the name of the administrator is to be approved by the Director of the Education and

Administrative Appeal is provided to the State. However, this Government Resolution has made it clear that in ordinary course, the administrator cannot be appointed, only under special contingencies, the Administrator can be appointed by the authorities, and the order regarding appointment of the Administrator shall be the speaking order.

11. After going through the inquiry report submitted by respondent No. 5 Education Officer to the Deputy Director of Education, Aurangabad Division (Exh. P-18) dated 30.7.2014, it emerges that no material irregularities were noticed by the Education Officer. The so called deficiencies mentioned in the report dated 30.1.2013 are already removed and complied by the Institution. Therefore, we do not find any illegality committed by respondent Nos. 1 to 5 authorities while declining to appoint the Administrator as requested by the petitioner.

12. In the result, this petition being devoid of

merits, is dismissed.

13. Parties to bear their respective costs.

14. Rule is discharged.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

mahajansb/