

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14004 OF 2018

Suryakant Daulatrao Patil

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. V.D. Gunale, Advocate for Petitioner

Mr. S.K. Tambe, Assistant Government Pleader
for Respondents/State

Mr. D.L. Sagar Killarika, Advocate for Respondent Nos. 3 and 4

Mr. R.N. Dhorde, Senior Counsel with Mr. V.R. Dhorde, Advocate for
Respondent No. 5

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 30th APRIL, 2019

ORAL ORDER:

1. The order passed by the Education Officer is assailed in the present Writ Petition.

2. We have heard Mr. Gunale, the learned Counsel for the petitioner, Mr. Killarika, the learned Counsel for the respondent Nos. 3 and 4 and Mr. R.N. Dhorde, the learned Senior Counsel for Respondent No. 5.

3. The issue raised by the petitioner is that this Court under order dated 19th September, 2017 in Writ Petition No. 3674/2016

had directed the Deputy Director of Education to decide the matter within a period of two months. It is submitted that the Deputy Director of Education has conducted the hearing and had made its noting, but the decision is taken by the Education Officer. According to the petitioner, the same is not permissible.

4. Upon hearing the learned Counsel for the respective parties, it transpires that the matter was heard by the Deputy Director of Education. He has also made noting and thereafter, remitted the matter to the Education Officer to pass the order. The said order would be bad in law on two counts :-

- (i) The same would be against the directions given in Writ Petition No. 3674/2016 under order dated 19th September, 2017 and,
- (ii) It would be against the principles of natural justice.

5. One authority had heard the matter and another authority had passed the order.

6. In light of the above, the impugned order is quashed and set aside.

7. The parties are relegated before the Deputy Director of Education, Latur Division, Latur.

8. The parties shall appear before the Deputy Director of Education, Latur Division, Latur on 15th May, 2019.

9. The Deputy Director of Education shall hear the parties and consider the documents that will be placed on record before him and take a decision within a period of two months from the date of appearance of all the parties.
10. All the contentions of the respective parties are kept open.
11. In view of the time lag, we have directed the Deputy Director of Education to hear all the parties again.
12. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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