

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1171 OF 2019
WITH
CIVIL APPLICATION NO. 6360 OF 2019

ANUSAYA SEVABHAVI SANSTHA
KANDDHAR THROUGH SECRETARY
GOPALKRUSHNA GOVINDRAO MORE ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS ...RESPONDENTS

Mr. B.B. Shinde, Advocate for Petitioner
Mr. S.B. Narwade, AGP for Respondents

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 26th AUGUST, 2019

ORAL ORDER:

1. The present writ petition is nothing but an abuse of process of law and Court.
2. In the present Writ Petition, the petitioner is challenging the order dated 22.08.2018 passed by the respondent No. 3 - Education Officer under prayer clause (B). Under prayer clause (C), the petitioner is seeking direction against the respondent No. 3 to decide proposal on 07.04.2018 afresh submitted by petitioner No. 2 as per the order passed by this Court dated 09.08.2018 in Writ Petition No. 3368/2017.

3. The petitioner is further seeking initiation of departmental enquiry against respondent No. 3 on account of granting *suo-motu* approval in favour of the suspended teacher, who is terminated. The same relief is claimed in payer clause (D). The petitioner had earlier filed writ petition bearing No. 13762/2018. In the said writ petition also, the same prayers were made. The prayers made in the said writ petition, reads thus -

B. To issue writ of certiorari or any other appropriate writ or direction in the like nature, the order dtd. 22/08/2018 passed by respondent no. 3 Education Officer may kindly be quashed and set- aside.

C. To writ of mandamus or any other appropriate writ or direction in the like nature, the respondent no. 3, may kindly be directed to decide proposal dtd. 7/4/2018 afresh submitted by the petitioner no. 2 as per order passed by this Hon'ble Court dtd. 09/8/2018 in Writ Petition No. 3368/2017.

D. To writ of mandamus or any other appropriate writ or direction in the like nature, the respondent nos. 1 & 2 may kindly be directed to initiate departmental enquiry against the res.no.3 on account of granting sue-moto approval in favour of suspended teacher, who is now terminated.

4. It would appear that all averments in the body of the petition and the prayer clauses were the same as made in the earlier writ petition No. 13762/2018.

5. The petitioner withdrew the said writ petition without any liberty . On 11th December, 2018, following order was passed in Writ Petition No.13762/2018 :-

Learned counsel appearing for petitioners, on instructions, seeks leave to withdraw the present writ petition.

2. Leave granted.

3. The writ petition stands dismissed as withdrawn.
No costs.

6. It would appear that the petitioner had withdrawn the writ petition on instructions of the petitioner. Upon the request made, the writ petition was disposed of as withdrawn and now the present writ petition is filed claiming the same reliefs. It is contended by the learned advocate for the petitioner that at the time writ petition No. 13762/02018 was filed, the petitioner did not possess the copy of the order dated 22.08.2018 and the same was obtained by him subsequently under the Right to Information Act.

7. The petitioner in the earlier writ petition could have sought time to produce on record the copy of the order or could have sought the liberty of the Court to file a writ petition challenging the said order.

8. The liberty was never sought nor is granted to the petitioner to file the fresh writ petition.

9. Entertaining a fresh writ petition, on the same cause of action with the same prayers and the same contentions when the earlier writ petition is unequivocally without any liberty and permission withdrawn would tantamount to abuse the process of court.

10. In light of that, we are not inclined to entertain the writ petition. The Writ Petition is dismissed.

11. This would not preclude the petitioner if so advised to take steps with regard to the order dated 11th December, 2018 in writ petition No. 13762/2018. No costs.

12. In view of dismissal of writ petition, Civil Application also stands disposed of.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

mta