

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11853 OF 2018

Rotary North Radhakishan Fomra
Mukhbadhir Vidhyalaya & Anr. Petitioners

Vs.

The Commissioner & Competent
Authority & Others Respondents

WITH

WRIT PETITION NO.7723 OF 2018

Rotary North Radhakishan Fomra
Mukhbadhir Vidyalaya & Anr. Petitioners

Vs.

Mrs. Snehalata Lokesh Bansode @
Snehalata Pralhad Meghache & Anr. Respondents

Mr. Surel S. Shah for the Petitioners.
Mr. S.S. Panchpor, AGP, for the Respondent-State
in both matters.
Mr. Rajaram V. Bansode for Respondent No.4 in
WP-11853/2018 and for Respondent No.1 in
WP-7723/2018.
Smt. Rohini R. Tadvalkar, Head Mistress of the
Petitioner-School, present.

**CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

DATE : FEBRUARY 11, 2019

P.C:

1. On the earlier occasion and after hearing both sides, we had passed the following order:-

“After this matter was argued for sometime and our attention is invited by Shri Shah to Exhibit G at page 37 of the paper-book, which is a copy of the order suspending respondent – teacher (first respondent in Writ Petition No. 7723/2018), Mr. Shah submits that one of the charges and serious in nature levelled against the first respondent is her act of threatening the Head Master, fellow teachers and non teaching staff that the first respondent will file complaints by invoking The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. According to Shri Shah, by such an act the name and the reputation of the Institution, which is a school for disabled, is tarnished. Now, the Institution is exposed to criticism.

2. *There is also a serious allegation of misconduct.*

3. *Mr. Bansode says that now there is a favourable order and first respondent has succeeded in the Appeal. Though the appellate order is under challenge, in the event that order is upheld by this Court, the first respondent undertakes not to breach the disciplinary rules and not to commit an act which will amount to misconduct. After she is reinstated in service, she shall withdraw all the allegations against the Management and equally the threats attributed to her.*

4. *Let Mr. Bansode file an affidavit of first respondent before next date and we will then hear both sides and pass appropriate orders. The affidavit would be filed positively by 5th February, 2019.*

5. *We post this Petition on 11th February, 2019 under the Urgent Admission' category."*

2. In pursuance of this order, the concerned teacher Snehalata Lokesh Bansode @ Snehalata Pralhad Meghache is present in Court. An undertaking is tendered by Mr. Bansode duly signed by this teacher. In view of this undertaking, which is taken on record and marked "X" for identification, and in the light of the clear statement that all allegations made against the Management are withdrawn, by consent of both sides, we pass the following order:

3. Civil Writ Petition No.7723 of 2018, which was clubbed along with Civil Writ Petition No.11853 of 2018, clearly says that the first respondent in this writ petition is the said Snehalata. Her services were suspended after a show cause notice was issued to her with effect from 2-5-2014.

4. A chargesheet was also issued. She preferred an

appeal against the order of suspension and that was dismissed on 19-12-2014. The petitioners say that this respondent being aggrieved and dissatisfied with the above order preferred a further appeal and that was placed before the Appellate Authority and Regional Deputy Commissioner, Department of Social Welfare, Pune. The appeal was preferred under Rule 86 of the Handicap Special School/Workshop Code, 1997. That appeal was heard and by a reasoned order the same was allowed. The operative order not only allows this appeal but quashes and sets aside the departmental proceedings. Consequently, the suspension order also stood set aside. The direction was to reinstate the first respondent in the services of the petitioners and grant her all the benefits, including arrears of salary. It was also directed that she must receive the benefits of the time-bound promotion scheme and the monetary reliefs attached thereto.

5. This order of the Appellate Authority dated 8-6-2018 is challenged in this writ petition and while this writ petition was pending, this Court was to pleased to make an ad-interim order. By reason of that ad-interim order, the first

respondent did not press for reinstatement.

6. Civil Writ Petition No.11853 of 2018 was preferred against the de-registration/withdrawal of registration of the first petitioner. That was an action taken by the District Social Welfare Officer, Zilla Parishad, Solapur for and on behalf of respondent Nos.1 and 3 to this petition. The triggering point was non-compliance with the order of the Commissioner and Competent Authority, Apang Kalyan, directing reinstatement of the said Snehalata.

7. After both the matters were clubbed and heard together, the above reproduced order was passed.

8. Pursuant to that order there is now an undertaking given.

9. It is common ground that the petitioner/Management had appointed the first respondent as a Special Teacher vide an appointment letter dated 20-6-1995 and she joined the said service on 1-7-1995. Having fulfilled the

requirement of the qualifying service and the order directing her reinstatement after 25 years, we put it to the first respondent/teacher Snehalata as to why she should not, and upon her reinstatement, take voluntary retirement from service and she, after this suggestion was given, took time, considered the matter in its entirety and without any pressure, coercion or force intimated through Mr. Bansode that she is ready and willing to take such retirement provided she is reinstated in the service.

10. Upon such a stand of the first respondent, we put it to Mr. Surel Shah, appearing for the Management, as to why the chapter cannot be closed with such arrangement as is in place and additionally the undertaking of the first respondent.

11. After consulting the Management's representative and office-bearer, Mr. Shah informs the Court on their instructions that if the first respondent/teacher, on being reinstated, immediately makes an application seeking voluntary retirement and retires from the date mentioned therein, gives up

her claim for backwages from the Management, then, the Management will grant this request and allow her to retire voluntarily. Thereafter, the Management will forward all the papers and documents to the District Social Welfare Officer as also the office of the Commissioner (Rehabilitation) functioning under The Rights of Persons with Disabilities Act, 2016. The Management will not come in the way of the teacher obtaining the relief of continuity of service and gratuity so also pension. Insofar as backwages are concerned, the request is as above.

12. Thereafter we, at today's hearing, suggested to Mr. Shah why the Management is averse to forwarding the documents and papers in relation to computation of her backwages and it should not be that the Management is not saddled with the responsibility and obligation to pay this sum but the Government may then release the grant because it is the Government which has stepped in and passed the order impugned in this petition. Thereupon the Government will reimburse the amount of backwages as well and in specified time.

13. After taking instructions, Mr. Shah says that the Management is not averse to complying with the above arrangement suggested by this Court.

14. Accordingly, by consent of both sides and without any reasoned order, Civil Writ Petition No.7723 of 2018 is dismissed, subject to the arrangement hereinabove. Civil Writ Petition No.11853 of 2018 is allowed with the following order and directions:-

- (a) The order impugned in this petition, de-registering petitioner No.1-school, stands quashed and set aside. All directions in the order dated 9-10-2018, which is quashed and set aside, would not survive in the light of the arrangement indicated hereinbelow. In other words, this order would stand complied with but in modified terms.
- (b) The petitioners in these two petitions shall reinstate the first respondent Snehalata in their services forthwith.

- (c) Within a period of two weeks from today, the first respondent shall tender her application for voluntary retirement from the services of the petitioners and which application shall be accepted and the communication of acceptance shall be issued within a period of one week from the receipt of the above application by the Management.
- (d) On such voluntary retirement taking effect, all papers, documents and records in relation to the appointment of the said Snehalata shall be forwarded to the Competent Authority, namely, the District Social Welfare Officer, Zilla Parishad, Solapur, with copies to the Commissioner and Competent Authority for the welfare of the disabled, Maharashtra State, Pune.
- (e) Since the first respondent is reinstated in the services of the petitioners forthwith and the moment she tenders her application for voluntary retirement, then let all the benefits accruing in terms of the qualifying service

rendered be made admissible and released in her favour. Meaning thereby, her appointment with effect from 1-7-1995 till the date of acceptance of her voluntary retirement application shall be taken as uninterrupted and continuous service. The benefit of the continuity of service shall be granted in her favour. On that basis, her terminal benefits, including pension and gratuity be computed by the authorities and the pensionary benefits should also be released in her favour.

- (f) Her claim for backwages in terms of the order passed by the Appellate and Competent Authority shall be computed by the petitioners and the first respondent jointly. The claim for backwages and the computation in relation thereto shall be forwarded to the District Social Welfare Officer who shall ensure that the State and himself release the necessary financial grant so that the Management is reimbursed or paid and disbursed the amount of the backwages of the said teacher. Any other benefits flowing from the order of the Appellate

Authority shall also be released in favour of the first respondent. We direct that the aforesaid exercise be completed as expeditiously as possible and in any event, before 30-4-2019 by all statutory authorities.

- (g) This order and directions are issued in the facts peculiar to this case and shall not be treated as precedent in other cases. The order and directions are passed because the parties have amicably settled the matter and resolved all the disputed issues. The first respondent/teacher Snehalata has withdrawn all the allegations against the Management in terms of the undertaking given by her which is accepted as an undertaking to this Court.
- (h) The next logical thing, therefore, would be that all legal proceedings and criminal prosecution must come to an end. That shall come to an end on compliance of all the above directions and with effect from 1-5-2019.
- (i) Needless to clarify that in the event the order and directions in this petition, as hereinabove, are not

complied with, then, all the authorities as also the first respondent are free to take such steps as are permissible in law, including withdrawing the registration in favour of the petitioner/Management. The legal proceedings initiated by the first respondent can then continue and they shall be concluded in accordance with law.

- (j) Needless to further clarify that in the event the first respondent/teacher does not comply with this order and directions, meaning thereby, she is reinstated in the service but does not tender her application for voluntary retirement, then, the first petitioner shall not be responsible for releasing and disbursing her backwages and that would be done only when the amounts and financial assistance in that regard is provided by the State and the District Social Welfare Officer. The petitioners will then only reinstate this teacher in their service and all her benefits would then have to be computed in terms of the applicable rules and regulations. Then she would obtain only such benefits as

are provided in the rules/law.

15. Civil Writ Petition No.11853 of 2018 accordingly
stands disposed of.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)