

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1810/2018

(SNEHADEEP EDUCATION SOCIETY, MASALA & ANR VERSUS RAJU PANDURANG DHUPE & ANR)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.J. Shinde, counsel for petitioners.
 Shri S.B. Bissa, A.G.P. for R-2.

CORAM : A.S. CHANDURKAR, J.

DATE : AUGUST 27, 2019.

In view of notice for final disposal issued earlier, the parties have been duly served. The respondent no.1 has not chosen to contest the writ petition. Accordingly, I have heard Shri R.J. Shinde, learned counsel for the petitioners and Shri S.B. Bissa, learned Assistant Government Pleader for the respondent no.2.

Interim order passed by the Industrial Court restraining the petitioners herein from terminating the services of the respondent no.1 without following the due process of law and during pendency of the complaint is the subject matter of challenge in the present writ petition. It is the case of the respondent no.1 that by an order dated 30.07.2008, he was appointed on the post of Superintendent. The institution in question is under the supervision of the Social Welfare Officer. As the respondent no.1 was not being paid his wages, he approached the Industrial Court by filing the aforesaid complaint seeking the relief of grant of unpaid wages. In that complaint, the petitioners raised an objection that the remedy available to the respondent no.1 was under the Special Code that was applicable for the schools

imparting education to the handicapped. The Industrial Court passed an interim order restraining the petitioners from terminating the services of the respondent no.1 without following the due process of law.

Shri R.J. Shinde, learned counsel for the petitioners submits that as the services of the respondent no.1 were governed by the provisions of the Code that was applicable for the schools imparting education to handicapped students, the Industrial Court had no jurisdiction to entertain the complaint. This aspect has not been considered by the Industrial Court and hence, grant of interim relief was not justified.

Shri S.B. Bissa, learned Assistant Government Pleader has produced the Code in question indicating the remedies available in respect of suspension, promotion, dismissal from service, etc.

It is seen that the relief sought in the complaint is with regard to grant of unpaid wages from February-2013. According to the petitioners, the jurisdiction in this regard is governed by the provisions of the Special Code. In the light of the specific defence as taken, the question of jurisdiction of the Industrial Court to entertain the complaint would arise for consideration. In that view of the matter, the interests of justice would be served by directing the Industrial Court to frame a preliminary issue as regards its jurisdiction to entertain the complaint in the light of the stand taken by the petitioners herein. Subject to adjudication of that preliminary issue, the impugned order dated 14.12.2017 shall continue to operate without prejudice to the rights of the parties. On such preliminary issue being framed, the Industrial Court shall decide it expeditiously.

With these directions, the writ petition is disposed of.

No costs.

JUDGE

APTE