

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5635/2015

Shri Dnyaneshwar Vitthal Chamat
..VS..
Education Officer (Sec.), ZP, Nagpur & ors.

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

Court's or Judge's orders

Shri V.N. Patre, Advocate for the petitioner
Ms. Shamsi Haider, AGP for the respondent no. 1
Shri V.A. Dhabe, Advocate for the respondent no. 2
Shri S.D. Abhyankar, Advocate for the respondent nos. 3 and 4
Ms. V. Khamborkar, Adv h/f Shri N.Khamborkar, Adv for Resp. Nos. 5 & 6

CORAM : Z.A.HAQ, J.
DATED : 08/01/2019

This petition is filed by the petitioner claiming to be the CEO of the Sanstha to challenge the interim order passed by the School Tribunal by which interim relief is granted in favour of the respondent no. 2 – Headmaster and the management is restrained from giving effect to the order dated 05/10/2014 by which the services of the respondent no. 2 are terminated.

The submission on behalf of the petitioner is that the Tribunal has exceeded its jurisdiction and has granted the final relief at interim stage. In support of the submission, reliance is placed on the judgment given in the case of State of U.P. & Ors. vs. Sandeep Kumar Balmiki & Ors. reported in 2009 III CLR at page 550.

The management is impleaded as the respondent no. 5 and the Secretary of the Sanstha is impleaded as the respondent no. 6. The name of the respondent no. 3 appears in the public trusts register as the President of the Sanstha and the name of the respondent no. 4 appears in the public trusts register as the member of the executive committee. The management and the recorded trustees have not challenged the impugned order. Though in para no. 1 of the writ petition, it is stated that the management has passed the resolution declaring that the petitioner is the CEO and is empowered to take necessary administrative action to run the school, copy of the resolution is not placed on record. There is no averment in the petition that the management has passed the resolution to challenge the impugned order. There is no averment in the petition that the CEO is authorized by a general resolution to represent the management in the proceedings before this Court, judicial and quasi judicial authorities.

The advocate for the respondent no. 2 has pointed out the judgment delivered by the Division Bench of this Court in the case of Maharashtra Shikshan Sanstha, Nagpur and another vs. Education Officer, Zilla Parishad, Nagpur and others reported in 1995 (1) Mh.L.J. at page 875, in which it is held that the School Tribunal can grant mandatory injunction exercising the powers under Section 10 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

Considering the facts of the case, specially that there is dispute amongst the office bearers of the management, and the fact that the respondent no. 2 –

employee had been working as the Headmaster of the school since 2010 and the Education Officer granted approval to his appointment as the Headmaster, I am of the view that the Tribunal has rightly exercised the jurisdiction vested in it.

I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

Ansari