

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1213 OF 2018.

THE CHAIRMAN, SCHOOL MANAGING
COMMITTEE, CORTALIM AND ANR., ... Petitioners

Versus

THE DIRECTOR OF EDUCATION,
DIRECTORATE OF EDUCATION AND ANR., ... Respondents

Shri S. D. Lotlikar, Senior Advocate with Mr. T. Sequeira, Advocate for the petitioners.

Shri V. Sardesai, Addl. Govt. Advocate for the respondent no.1.

Shri A. Bhobe and Shri C. Angle, Advocates for the respondent no.2.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 14th February 2020.

P.C.

The second respondent-Headmaster faced grave allegations, such as misappropriation of school funds, and faced disciplinary proceedings. Those proceedings resulted in his removal. That was in March 2016. Aggrieved, the second respondent-Management, as the statute mandates, sent the order of termination to the first respondent-Director for approval. Though the Director approved the Management's action, he cast a doubt on one particular aspect. To elaborate, the Director wondered whether the Manager was a co-signatory to the cheque. If so, he too should have been prosecuted or, at least, examined as a witness.

2. At any rate, after observing that the Manager ought to have been examined as a witness, the Director eventually granted the

approval. In the above backdrop, the second respondent questioned the Director's approval before the Administrative Tribunal. In turn, the Tribunal remanded the matter to the Director. Now it was the Management's turn to be aggrieved, so it has filed this Writ Petition.

3. Shri S. D. Lotlikar, the learned Senior Counsel, has admitted that the Disciplinary Authority has framed as many as 18 charges and found all of them against the delinquent employee—the second respondent. According to him, the Director ought not to have indulged in surmises and conjectures about the role the Manager might have played. Based on the Director's gratuitous observation that the Manager ought to have been examined as a witness, the Tribunal has upset the whole order.

4. To elaborate, the learned Senior Counsel contends that even if we disregard the charge no.13, which concerns the withdrawal of the money, the other 17 charges, all grave in nature, have already resulted in the second respondent's dismissal. Therefore, he urges this Court to set aside the Tribunal's impugned judgment.

5. On his part, Shri V. Sardesai, the learned Addl. Govt. Advocate for the first respondent, first, concurs with the petitioner's counsel substantially. But he maintains that the remand is for the limited purpose of securing a clarification from the Director about the alleged withdrawal of the money by the Manager. At any rate, according to him, the Management has failed to examine the Manager

as a witness. Shri V. Sardesai stresses that remand does not affect the merits of the matter, nor does it absolve the second respondent of all the other charges.

6. Shri Bhobe, the learned counsel for the second respondent, has submitted that the Director's order suffers from ambiguity; therefore, the Tribunal has justly remanded the matter. According to him, as the remand is for a de novo consideration by the Director, the second respondent is entitled not only to reinstatement but also to all service benefits.

7. Indeed, the second respondent was charged with grave misconduct, faced disciplinary proceedings, and eventually suffered major penalty: removed from service. The Director granted the approval under Rule 97 of the Goa Daman and Diu School Education Rule 1986. He concurred with all the findings of the Disciplinary Authority on all aspects. But, perhaps, gratuitously, he has observed that in the inquiry, the Management ought to have probed the role of the Manager; at least, it must have examined him as a witness.

8. Based on the Director's stray observation, the Tribunal remanded the matter to the Director. That said, the Tribunal's impugned judgment reveals that the Tribunal wanted clarification from the Government Advocate, who represented the Director before the Tribunal. It wanted to know whether the Manager was a co-signatory. But instead of answering the Tribunal's query, the learned Government

Advocate, as noted by the Tribunal, wanted the Tribunal to remand the matter. That is how the remand has been occasioned. In fact, while remanding the matter, the Tribunal has noted that it has not disturbed the findings.

Under these circumstances, I refuse to interfere with the Tribunal's order. But at the same time, I note that the remand is confined to that singular aspect as covered by charge 13. The rest of the Director's order, as well as the Disciplinary Authority's findings, remains unaffected. In other words, the termination order stands, as the remand is limited and covers only a collateral issue.

DAMA SESHADRI NAIDU, J.

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