

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.227 OF 2020

Rahil S. Bhatkar
F. No.07, Block-B
Rukmini Residency
Opposite Nayak Building
Baina, Vasco-Goa.

..Petitioner

Versus

- 1 The State of Goa
Through the Chief Secretary
- 2 The Director of Education
Directorate of Education
Alto-Porvorim, Bardez-Goa
- 3 The Dy. Director of Education (Acad)
Directorate of Education
Alto-Porvorim, Bardez-Goa
- 4 The Chairman
Ameeniyah High School
Baina Vasco-Da-Gama, Goa.
- 5 Miss Ruhat Shaik
H. No. 483, Near Airways Bar
Shantinagar, Vasco-Da-Gama

..Respondents

Mr. Chaitanya P. Padgaonkar with Ms. Apeksha Kalokhe,
Advocates for the Petitioners.

Mr. Manish Damodar Salkar, Government Advocate for the
Respondents No.1, 2 and 3.

Mr. Avinash Nasnodkar, Advocate for the Respondent No.4.

**CORAM: REVATI MOHITE DERE &
M. S.JAWALKAR, JJ.**

DATED: 26th October, 2021

ORAL JUDGMENT: (Per. REVATI MOHITE DERE, J.)

Heard Mr. Chaitanya P. Padgaonkar, learned counsel for the petitioner, Mr. Manish D. Salkar, learned Government Advocate for the respondents No.1, 2 and 3 and Mr. Avinash Nasnodkar, learned counsel for the respondent No.4.

2. Rule. Rule is made returnable forthwith with the consent of the learned Counsel for the parties and is taken up for final hearing.

3. By this petition, the petitioner has sought the following substantive prayer, which reads as under:

'a) For a writ of Mandamus or any other appropriate writ, order in the nature of Mandamus directing the Directorate of Education, Government of Goa to revoke the Impugned Impugned letter dated 9.12.2019 bearing NO.DE/Acad/Vasco/Vig/66/2019/2856.'

4. Learned Counsel for the petitioner submits that the petitioner was appointed to the post of LDC-cum-Librarian at Ameeniyah High School vide order dated 07.10.2017. He submits that the petitioner was shocked to receive a notice dated 26.02.2019 from the institution of Goa Lokayukta on the basis of a complaint initiated by one Ms. Ruhat Shaikh. He submitted

that Ms. Ruhat Shaikh in her complaint had alleged that the petitioner's residence certificate dated 25.01.2016 was issued on the basis of a false declaration and on the basis of a forged certificate produced by him.

5. Counsel for the petitioner submitted that the petitioner had filed a detailed reply before the Goa Lokayukta and vide an additional reply placed on record a fresh residence certificate dated 19.06.2019 to show that the petitioner was in fact a resident of Mormugao South Goa for about 15 years (excluding the period from 17.05.2006 to 31.10.2012). He submitted that Ms. Ruhat Shaikh had also filed a compliant before the Director, Directorate of Vigilance Department dated 08.02.2018 on the basis of which an inquiry was held which culminated into a preliminary enquiry report dated 25.07.2018. The said inquiry report was placed before the Dy. Superintendent of Police (Vigilance) for onward approval. Consequently, the Directorate of Vigilance vide letter dated 18.08.2019 directed the Director, Directorate of Education to discharge the petitioner herein, as per the procedure. On the basis of the said vigilance inquiry, the Office of the Mamlatdar of Mormugao Taluka, Vasco-da-Gama issued a communication to the petitioner whereby his residence certificate dated 25.01.2016 was revoked.

6. It appears that the petitioner did not assail the said communication, as he had already obtained another residence certificate dated 19.06.2017 before the said communication was issued to him. It appears that the Directorate of Vigilance directed the Director, Directorate of Education to discharge the petitioner as per procedure. It appears that the Director of Education issued a show cause notice to the Chairman, Ameeniyah High School, i.e. respondent No.4 whereby the Chairman of the said School was directed to show-cause why the approval granted for petitioner's appointment should not be revoked. It appears that the Chairman of Ameeniyah High School, i.e. respondent No.4 replied to the show cause notice vide reply dated 29.10.2019. In its reply, respondent No.4 had stated that the Managing Committee of the School in its meeting had resolved that it will issue necessary show cause notice to the petitioner demanding his explanation in this regard. It was prayed that a lenient view be taken and the show cause notice dated 18.10.2019 be withdrawn as the matter was pending before the Lokayukta. However, no notice was issued by the Director of Education to the petitioner. On receipt of the show cause notice from the respondent No.2 (Director of Education, Directorate of Education), the respondent No.4 – Chairman, Ameeniyah High School issued a show cause notice dated 13.11.2019 to the

petitioner. The petitioner replied to the show cause notice, vide reply dated 18.11.2019. It appears that no action was taken by the Chairman/Management of the School.

7. It appears that on receipt of the reply from the respondent No.4, i.e. The Chairman, Ameeniyah High School, to the show cause notice issued by the Directorate of Education, the Directorate of Education addressed a communication to the Chairman of the School stating therein that the approval dated 01.01.2018 was withdrawn and as such directed removal of the petitioner from the post of LDC-cum-Librarian. The petitioner received a communication dated 26.12.2019 from the respondent No.4 – The Chairman, Ameeniyah High School, informing him that his approval was withdrawn by the respondent No.2-Directorate of Education for the post of LDC-cum-Librarian and his services were accordingly terminated with effect from 27.12.2019 on the basis of the said letter.

8. The grievance of the petitioner is that before imposing major penalty upon the petitioner, the School authorities, i.e. respondent No.4 ought to have instituted disciplinary proceedings as mandated under the provisions of the Goa Daman & Diu School Education Rules, 1986. It is

submitted that the said communication was in complete breach of the principles of natural justice.

9. During the course of the hearing of the aforesaid petition, learned Counsel appearing for the respondent No.2 on the instructions of Mr. Bhushan K. Savaikar, the Director of Education, fairly submitted that an inquiry ought to have been conducted by the respondent No.4, before terminating the petitioner's services. Learned Counsel for the respondent No.4 on instructions submits that they are ready to conduct an inquiry and that they will withdraw the letter dated 26.12.2019, by which the petitioner's services were terminated.

10. Learned Counsel for the respondent No. 2 states that the withdrawal of the petitioner's approval dated 09.12.2019 which is at page 115 of the petition will be kept in abeyance till such time the respondent No.4 conducts an inquiry in accordance with the Goa Daman & Diu School Education Rules, 1986.

11. We accept the statement made by the learned Counsel appearing for the respondent No.2 that they will keep the withdrawal of the petitioner's approval dated 09.12.2019 in abeyance and the statement of the learned Counsel for the

respondent No.4 that they will withdraw the letter dated 26.12.2019, by which the petitioner's services were terminated. Learned Counsel for the respondent No.4 states that an inquiry/departmental proceedings will be conducted by them as expeditiously as possible and that the same would be completed within 3 months from November 15, 2021. On completion of the inquiry/departmental proceedings, the said inquiry report be sent to the respondent No.2-the Directorate of Education, to enable the respondent No.2 to take appropriate decision on the basis of the said report, uninfluenced by their earlier order dated 09.12.2019.

12. Rule is made absolute in the aforesaid terms. Petition is accordingly disposed of.

13. It is made clear that we have not gone into the merits of the case and, as such, all contentions of all parties are kept open.

14. All parties to act based on the authenticated copy of this Order.

M. S. JAWALKAR, J.

REVATI MOHITE DERE, J.