

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1 WRIT PETITION NO.3112 OF 2020
WITH CA/2705/2022 IN WP/3112/2020

SHAIKH MUSTAFA MAHAMMAD BASID
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....

Mr Sachin S. Deshmukh, Advocate for petitioner;
Mr S. K. Tambe, A.G.P. for respondent Nos.1 to 4
Mr R. M. Shaikh, Advocate for respondent No.5

**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 17th August, 2022

PER COURT:

1. Leave to add the 'State Project Director, Maharashtra Prathmik Shikshan Parishad, Mumbai' as respondent No.6. Addition be carried out forthwith.

2. We have considered the submissions of the learned Advocates for the respective sides. The Education Officer, vide her affidavit-in-reply dated 31/03/2022, has stated in paragraph No.5, as under :-

"5. I say and submit that, as per Zoom meeting conducted on 12.01.2021, the petitioner participated in the said meeting by which an opportunity was given to the petitioner for reinstatement as Special Teacher and all documents

(2)

*submitted by the petitioner including the resignation and all other relevant documents were forwarded by the Education Officer, Zilla Parishad, Jalna to the State Project Director, Maharashtra Prathmik Shikshan Parishad, Mumbai on 29.01.2021. I say that, in pursuance of the said claim of the petitioner document verification and decision is awaited from the State Project Director, M.P.S.P. The copy of communication dated 29.01.2021 sent to the State Project Director, M.P.S.P. Mumbai are annexed herewith and marked as **EXHIBIT R-3.**”*

3. It is then stated in paragraph No.7 that, as the petitioner has resigned from 02/05/2016, there is no question of entertaining the prayer of the petitioner for reinstatement. Since the entire file is before the State Project Director, it would be the said authority which can decide the dispute of resignation of the petitioner.

4. The learned Advocate for the petitioner vehemently submits that, the petitioner has never resigned and the purported resignation is a forged document.

5. While exercising writ jurisdiction, this Court cannot go into the disputed questions and especially, as to whether the petitioner's resignation is a forged document or whether the resignation could be termed as a forceful termination.

(3)

6. In view of the above, this petition is disposed off with the expectation that the State Project Director, respondent No.6, shall consider the proposal forwarded to him in the light of the claim of the petitioner and upon due verification of the papers, shall arrive at a conclusion within the jurisdiction vested in him by law. Let such decision be taken, on or before 15/10/2022. If need be, the petitioner as well as the stakeholders may be given an opportunity to address respondent No.6. All contentions of the parties are kept open.

7. Needless to state, the issue of wages as claimed by the petitioner after 02/05/2016, would be subject to the decision of respondent No.6.

8. Pending civil application would not survive and the same stands disposed off.

9. We expect the learned A.G.P. to serve a copy of this order on respondent No.6.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

sjk