

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3588 OF 2014

Tulinj Primary School, through Chairman

Mr. Damodar K. Deshmukh

... Petitioner.

V/s.

The State of Maharashtra, through the
Secretary, Ministry of Education & Sports
& Others

... Respondents.

Mr. Sachin Punde, for the Petitioner.

Mr. S.B. Kalel, AGP, for the Respondent-State.

**CORAM : NITIN JAMDAR AND
AMIT BORKAR, JJ.**

**DATE : 31 JANUARY 2022.
(Through Video Conferencing)**

P.C. :

By this Writ Petition, the Petitioner, an Educational Trust who conducts a primary school, is challenging orders passed by the Education Officer (Primary), Zilla Parishad, Thane dated 31 August 2013 and 29 November 2013.

2. By the impugned communications, the Education Officer has directed the Petitioner to absorb Respondent No. 4, a teacher who was working in some other school and was declared surplus, to be absorbed with the Petitioner – School. The order further directed

that if the Petitioner – School failed to do so, coercive action would be taken against the Petitioner.

3. Challenging these orders, the Petitioner filed this Writ Petition in the year 2014. The petition is pending since then. On 5 May 2014 notice was issued to Respondent Nos. 3 and 4. There is a reference to Respondent No. 4 appearing before the Registrar on 17 February 2014 and he was asked to produce the identity proof. Thereafter, there is no reference of the Respondent No. 4 appearing either before the Registrar or the Court. When the petition came up on 28 March 2019 fresh notice was issued to the Respondent No. 4. The Registry has endorsed that the notice was returned with remark 'address not traceable'.

4. The Respondent No. 4 is aware of pendency of this petition from the year 2014 and yet has not taken any effort to represent himself or to get the impugned orders which are passed in his favour enforced. Admittedly, as on date the Respondent No. 4 is not absorbed in the Petitioner's services. If the Respondent No. 4 is not interested in joining the Petitioner pursuant to the impugned orders, there is no purpose keeping the impugned orders on record as the beneficiary is not interested in seeking enforcement thereof.

5. As regards the proposal of Respondent No. 3 in respect of which prayer (c) is sought, the proposal is dated 17 May 2013, i.e.

almost a decade ago. Learned AGP points out that the proposal of 2013 may not be traceable in the record. The position as on today is also not very clear. The Petitioners have also not sought any urgent listing of the petition for last almost eight years. Therefore, as regard prayer (c), it is open to the Petitioner to submit a fresh proposal in respect of Respondent No. 3 to be decided by the Respondents as per law.

6. In light of this position, we quash and set aside the impugned orders and allow the petition in terms of prayer clause (a).

7. Writ Petition is accordingly disposed of.

(AMIT BORKAR, J.)

(NITIN JAMDAR, J.)