

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 88 OF 2016

WITH

WRIT PETITION NO. 3580 OF 2015

Santosh Gahinnath Dhakane ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH

CIVIL APPLICATION NO. 1357 OF 2017

IN

WRIT PETITION NO. 3580 OF 2015

Namdeorao Mohal Vidya
va Kreedha Pratisthan ... **Applicant**

In the Matter Between :

Santosh Gahinnath Dhakane ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

Mr. N. V. Bandiwadekar i/b. Mr. Sagar Ashok Mane,
Advocate for the Petitioners in CP/88/2016 and
WP/3580/2015.

Mr. K. S. Thorat, AGP for the Respondents/State.

Mr. Shirish Pitre, Advocate for Respondent No.3 in
CP/88/2016 and WP/3580/2015 and for Applicant in
CAW/1357/2017.

**CORAM: S.V. GANGAPURWALA &
 MADHAV J. JAMDAR, JJ.**

DATED : AUGUST 17, 2022

P.C.

1. We have heard Mr. Bandiwadekar, learned Advocate

for the petitioner and Mr. Pitre, learned Advocate for respondent No.3/Institution.

2. Mr. Bandiwadekar, learned Advocate for the petitioner submits that the petitioner was promoted as Headmaster. The appointment of the petitioner as Headmaster is approved by the Education Officer under order dated 1st January 2015. Thereafter, under order dated 25th March 2015, the same is cancelled by the Education Officer. According to the learned Counsel for the petitioner, Education Officer does not have power of review. There was Scheduled Tribe candidate available. The petitioner was rightly appointed being senior most in NT-D category. The petitioner belonged to the NT-D category. It is submitted that the petitioner also has a Validity Certificate of NT-D.

3. According to Mr. Pitre, learned Advocate for respondent No.3/Institution, in fact, the resolution was interpolated. The Management has never given consent to the petitioner being appointed as Headmaster. This Court passed an ad-interim order in terms of prayer clause (c). The petitioner already reverted from service. Another person is transferred as Headmaster in place of the petitioner. The transfer of the other person as Headmaster in place of petitioner is also approved by the Education Officer. The learned Advocate for the respondent/Institution submits that the petitioner has not reported for duty in seven years, however, in view of pendency of the writ petition, further steps have not been taken by the Management.

4. There is no dispute that the Education Officer could

not have reviewed its own order. In absence of specific averment, the same could have been done by the Deputy Director of Education. In light of that, we pass the following order :

ORDER

- i) The impugned order is quashed and set aside.
- ii) As the other person is officiating in place of petitioner and his transfer is also approved, it would not be appropriate to change the present status.
- iii) As the petitioner already reverted, it is upto the petitioner to join as Assistant Teacher subject to the decision that has to be taken by the Deputy Director of Education.
- iv) The petitioner and the Institution shall appear before the Deputy Director of Education on 5th September 2022.
- v) The Deputy Director of Education shall, after considering the case put forth by the petitioner, take a fresh decision with regard to the approval to the appointment of the petitioner as Headmaster on its own merit preferably within one month from the date of appearance of parties before it.
- vi) As the date of appearance is already given, it is not necessary for the Deputy Director of Education to issue separate notice.
- vii) In view of above, the writ petition is disposed of.
- viii) The contempt petition also stands disposed of.

ix) The civil application filed by the Institution also stands disposed of.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)

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