

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION No. 1139 OF 2022

Hindustan Vidya Mandal
and another.

.... Petitioners.

VERSUS

The Education Officer (Secondary)
Zilla Parishad, Nagpur and another.

.... Respondents.

Mr.N. Khamborkar, Advocate for Petitioners.
Mr.A.S. Fulzele, Addl.G.P. for Respondent No.1.
Mr.P.N. Shende, Advocate for Respondent No.2.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 28 MARCH 2022.

P.C.

Heard learned Counsel for the parties. Taken up for disposal.

2. Petitioners are aggrieved by the order passed by the Education Officer [Secondary], Zilla Parishad, Nagpur dated 3 February 2022 directing Petitioners to submit proposal of Respondent No.2 as a head of the school and canceling the signing

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powers given to Petitioner No.2 for administration of the school in question. Petitioners have also challenged the consequential directions issued by the Respondent – Education Officer.

3. There is a dispute as to the seniority of Petitioner no.2 and Respondent No.2. This dispute will have to be considered in the appropriate forum. However, the impugned order has proceeded on the basis of orders dated 12 January 2022 and dated 18 December 2021 passed by this Court in Writ Petition Nos.1526/2021 and 518/2020 filed by Respondent No.2 against the Petitioner No.1. Reading of the impugned order and the orders passed by this Court will show that some of the facets indicated by this Court are not reflected in the impugned order. The impugned order proceeds on the basis that this Court by orders dated 12 January 2022 and 18 December 2021 has quashed and set aside the order of suspension and there is no further impediment in the way of Respondent No.2 to be appointed as a head of the school, holding him to be the senior most.

4. The learned Counsel for Petitioners points out that the order passed by this Court does not give any clean chit to Respondent No.2 and a liberty is given to Petitioner No.1 Management to hold a fresh enquiry. The learned Counsel for Respondent No.2 points out that fresh enquiry if any, will have to be conducted after complying with the order passed by the School Tribunal.

5. Be that as it may, it is clear that this aspect of the matter is clearly missed out by the Education Officer as it does not find any reference in the impugned order. Ordinarily we would have not interfered in the impugned order, as granting of signing powers is not a substantive right and inter-se the dispute of seniority will have to be decided before appropriate forum, but, if the order of this Court has not been considered in totality while passing the impugned order, corrective measures will have to be adopted. We are informed that the proposal of Petitioner No.2 as head of the school submitted by the Petitioner No.1 is also pending. A composite decision on the same will be taken by the Education Officer.

6. Accordingly the following order.

6.1. Respondent No.1 Education Officer will pass a fresh order in respect of the signing powers and submission of proposal to the post of head.

6.2. The observations made in the order dated 3 February 2022 of Respondent No.1 will be considered as prima facie.

6.3. The Education Officer will consider the order passed by this Court in Writ Petition Nos.518/2020 and 1526/2021, the order passed by the Tribunal as also other

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relevant material, and thereafter pass a fresh order within a period of 6 weeks from today.

- 6.4. Till the final decision is taken, the Education Officer, in the interest of smooth functioning of the management, will decide as to who should be given the signing powers subject to the decision.
7. The contentions of the parties are kept open.
8. Writ Petition is accordingly disposed of in above terms.

(ANIL L. PANSARE, J) (NITIN JAMDAR, J)

Rgd