

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR**

**Writ Petition No. 2271/2022**

Pratibha Multipurpose Education Society, Nagpur and

another

...Petitioners

**Versus**

State of Maharashtra and ors.

...Respondents

Mr. Anand Parchure, Advocate for the Petitioners

Mr. Amit Madiwale, Assistant Government Pleader for the Respondent

Nos. 1 and 2

Mr. A.D. Mohagaonkar, Advocate for Respondent No. 4/Caveator

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

**DATED : 27 APRIL 2022**

**P.C.:**

Heard the learned Counsel for the parties. The petition is taken up for disposal.

2. The Petitioners challenged the order/report dated 20 April 2022 passed by the Respondent No. 2 – Education Officer (Secondary), Zilla Parishad, Nagpur. By the impugned order, the Respondent No. 2 – Education Officer (Secondary) cancelled the approval of the Petitioner No. 1 for appointment/promotion of the Petitioner No. 2 as Headmaster/Supervisor.

3. The Petitioner No. 2 was appointed as Shikshan Sewak (Assistant Teacher) on 09 February 2009. Approval to the appointment of the Petitioner No. 2 was granted by the Education Authority. According to the Petitioner No. 2, the Petitioner No. 1 - Management passed an Resolution deciding to permit the Petitioner No. 2 as a Supervisor. By order dated 11 February 2022, the Respondent No. 2 – Education Officer granted approval to the appointment of the Petitioner No. 2 to the post of Supervisor. Thereafter, on 28 February 2022 the Petitioner No. 1 – Management appointed the Petitioner No. 2 as a Headmaster. By order dated 05 March 2022, the Respondent No. 2 - Education Officer granted approval to the promotion of the Petitioner No. 2 as a Headmaster. Thereafter by the impugned order dated 20 April 2022, the orders dated 11 February 2022 and 05 March 2022 were cancelled by the Respondent No. 2 – Education Officer. In the impugned order, there is a reference to the complaint made by the Respondent No. 4 that the appointments in favour of the Petitioner No. 2 were illegal and there is no relinquishment by other senior Teachers.

4. The perusal of the impugned order shows that the Respondent No. 2 – Education Officer has not recorded any final conclusive opinion as to the fraud. On the other hand, the Respondent No. 2 – Education Officer states that relinquishment letter of the Respondent No. 4 appears to be suspicious and an inquiry is necessary to ascertain whether injustice is caused to the

Respondent No. 4. Accordingly, the Respondent No. 2 – Education Officer has directed that an inquiry be completed in ten days.

5. Though, the learned Counsel for the Respondent No. 4 has relied upon Rule 3(6) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 to contend that the Respondent No. 2 – Education Officer has power to recall his order on the ground of fraud, the power cannot be exercised in the manner in which it is sought to be done in the present case. On the ground of fraud, the Respondent No. 2 – Education Officer himself has recorded a need for inquiry. This is not a conclusive finding. As on today, there is no final finding of the Respondent No. 2 – Education Officer on fraud and even before final finding is recorded the Respondent No. 2 – Education Officer has recalled his own orders which ought not to have been done as the inquiry is still be completed. Furthermore, the Petitioners contend that such sudden withdrawal of the orders caused the confusion in the functioning of the School. In these aspects, we are of the opinion that the Petitioners are entitled to succeed.

6. Accordingly, the impugned order dated 20 April 2022 to the extent, it recalled earlier orders dated 11 February 2022 and 05 March 2022 is quashed and set aside.

7. The Petitioners will attend the inquiry and will not take any adjournment so that inquiry be completed in ten days.

8. The contentions of all the parties including the Petitioners regarding power of the Respondent No. 2 – Education Officer for review are kept open.
9. The writ petition is accordingly disposed of. No costs.

[ANIL L. PANSARE, J.]

[NITIN JAMDAR, J.]

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