

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

WRIT PETITION NO. 3241 OF 2008

Smt. Pushpabai Wd/o Gajanan Shelke,
Aged about 42 years, Occ- Nil,
R/o. At Post Mangrul-Bhilapur,
Tq. Morshi, Distt. Amravati.

-- Petitioner.

Versus

- 1) Education Officer (Sec.),
Zilla Parishad, Amravati.
- 2) The Deputy Director of Education
Amravati Division,
Walgaon Road, Amravati.
- 3) State of Maharashtra,
Through Secretary,
Department of Education,
Mantralaya, Mumbai-32.
- 4) Education Society, Belora,
Tahsil Chandur Baazar,
Distt. Amravati through its
President Dr. Shri R.N.Deshmukh,
Shivaji Hospital, Camp, Amravati,
Tah & Distt. Amravati.

-- Respondents.

Mr. N. Z. Mirza, Advocate h/for Mr. K. B. Gurbani, Advocate for
Petitioner.

Mr. N. S. Rao, A.G.P. for Respondent Nos.1 to 3.

**CORAM : NITIN JAMDAR &
ANIL L. PANSARE, JJ.
DATE : 11 MARCH 2022**

P.C. :

Heard learned counsel for the parties.

2. The Petitioner is the wife of Gajanan Narayanrao Shelke, who was appointed on the post of Assistant Teacher in the Respondent No.4 Education Society on 15 October 1984. Thereafter on 01 July 1985, Gajanan Shelke was appointed as Laboratory Attendant in E.S. High School at Riddhapur conducted by Respondent No.4 Education Society. The school where the Gajanan Shelke worked was de-recognized by order dated 18 May 1996, passed by the Deputy Director of Education, Amravati.

3. Gajanan Shelke and other similarly situated employees filed Writ Petition No.1372 of 1996, which was disposed of on 02 February 2006, directing the Education Officer to give the opportunity of hearing to them and similarly situated employees. Thereafter, the Education Officer conducted the hearing and by the impugned order dated 17 May 2006 de-recognition of the school and consequential removal of service of the Gajanan Shelke was confirmed. Petitioner filed this Petition on 21 June 2008 as by then Gajanan Shelke, her husband, had expired.

4. Heard the learned Counsel for the parties. We have perused the record.

5. The impugned order gives the background and states the reasons for withdrawal of the recognition of the School from the academic year 1995-96. It is stated that there was a continuous ongoing dispute between the Management and the teachers. The school's academic performance totally deteriorated, and the passing percentage of the students was meager. The students in the concerned villages were taking education elsewhere, and this fact was even accepted by the teaching staff. The Education Officer observed that since the employees and the teaching and non-teaching staff were responsible for the de-recognition of the School. An observation was made that it was not a dispute concerning the trust, but the entire blame for de-recognition was on the staff. On this factual assertion that the Education Officer concluded that the teaching and non-teaching staff, including Petitioner's husband, was responsible for the de-recognition of the school.

6. The Petitioner has raised various factual issues and seeks to demonstrate how the teaching and non-teaching staff members were not responsible and also other legal issues. If the impugned order is to be set aside, it will have to be examined as to whether the Petitioner's husband and others were responsible for de-recognising

the school or not. It is a factual inquiry. The school was closed 25 years ago in the year 1996. Most of the factual aspects would be within the knowledge of the Petitioner's husband, who is no more. The Petition itself was filed with delay; therefore, at this point of time to direct that the enquiry regarding the role of the Petitioner's husband in de-recognition of the School would be impracticable. Apart from this position, the impugned order shows that the teaching and non-teaching staff in their representation had accepted that the students were not coming to the School. As contended by the learned Assistant Government Pleader, this aspect is itself sufficient enough to sustain the order. Thus, by passage of time it is not possible to remand the proceedings and hold a fresh enquiry.

7. But we do take note that the petition is prosecuted by the widow. It is not that the husband of the Petitioner was removed from service for misconduct; neither he alone was responsible for de-recognition, but it was a collective failure on the part of the teaching and non-teaching staff of the school as per the case of the Respondent. In the Petition it is stated that the Petitioner is without any source of income and is doing labour work.

8. In these facts and circumstances of the case, when we are disposing of the petition in light of a passage of time and the situation as above, we direct that the copy of the Petition be placed before the Deputy Director of Education who will consider it as

Petitioner's representation to ascertain whether any sympathetic view can be taken in favour of the Petitioner. The Deputy Director will also consider whether any monetary benefits can be extended to the Petitioner under any beneficial policy of the State.

9. With these observations, the Writ Petition is disposed of. Rule is discharged. No costs.

[ANIL L. PANSARE, J.]

[NITIN JAMDAR, J.]

Kirtak