

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

WRIT PETITION NO. 3136 OF 2021

Anant s/o Manohar Joshi
Vs.
State of Maharashtra, Thru. Secretary an Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Purushottam Patil, Advocate for petitioner.
Mr. H.D. Dubey, AGP for respondent/State.

CORAM : MANISH PITALE J.

DATE : 31.03.2022.

By this writ petition, the petitioner has challenged order dated 09.03.2021 passed by the respondent No.2 – Commissioner whereby an appeal filed by the respondent No.4 against an order reverting him from the post of Headmaster, was allowed and the order of reversion was set aside.

2. The respondent No.4 was reverted by an order dated 19.08.2020 from the post of Headmaster, for allegedly having defalcated amount while performing his duties as Headmaster of the School.

3. The respondent No.4 challenged the said order before the Commissioner by instituting proceedings.

4. In the impugned order, the Commissioner noted the fact that on the respondent No.4 having conceded that there had been some irregularity, had deposited a specific amount in the Government Treasury. Thereafter, the Commissioner recorded that the order of reversion came to be passed only on the basis of a preliminary enquiry and the aforesaid act on the part of respondent No.4 in depositing the amount in the Government Treasury. Admittedly there was no departmental enquiry conducted before the said order of reversion was issued. On this sole ground the respondent Commissioner held in favour of respondent No.4 and set aside the reversion order dated 19.08.2020.

5. It is the case of the petitioner that when the order of reversion was passed, by a Resolution of the Municipal Council, it was resolved that the petitioner would be appointed as a Headmaster, but, actual order of appointment as Headmaster could not come through, for the reason that the proceedings initiated by respondent No.4 challenging the order of reversion were pending before the Commissioner. In

this situation, the petitioner merely worked as Incharge Headmaster.

6. On this basis, the petitioner claims to have locus to challenge the impugned order. This Court fails to understand as to how the petitioner would have locus to challenge the impugned order dated 09.03.2021. If at all, it would be the Municipal Council, which could be said to be an aggrieved party as the order of the Chief Officer of the Municipal Council dated 19.08.2020, whereby the respondent No.4 was reverted, was set aside by the impugned order. There is nothing to show that the Municipal Council has taken any steps to challenge the aforesaid order dated 09.03.2021 passed by the Commissioner. No vested right ever accrued to the petitioner in the above referred facts and circumstances.

7. Therefore, this Court is of the opinion that the petitioner has no locus to challenge the impugned order passed by the Commissioner.

8. Accordingly, the writ petition is dismissed.

JUDGE

Prity