

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

78 WRIT PETITION NO.2675 OF 2023

RAKSHANDA BADAR MOHAMMAD ILIYAS AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. A. N. Nagargoje.
AGP for Respondent/State : Mr. V. M. Kagne.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**
DATE : 08th March, 2023.

Per Court:

1. It is undisputed that the earlier HM has been terminated. A senior teacher has also been terminated. This Court has declined to entertain the proceedings filed only by the terminated teacher, since the School Tribunal is the appropriate forum available. The terminated HM has not approached the Court.

2. We have considered the order passed by this Court on 23rd January, 2023 in Writ Petition Nos.640, 647 and 656 of 2023. We have protected the Petitioners/employees against termination. Today, there is no Incharge HM and Petitioner No.1 claims to be the senior most teacher. Petitioner No.2 Education Trust also contends that Petitioner No.1 is the senior most teacher, whose name is recommended as Incharge HM.

3. The learned AGP submits that the Respondents are unable to take a decision since they fear that there would be a contempt of the Court.

4. There can be no dispute that a school or an institution has to have a full-fledged head of the institution either in the form of a Principal or as an HM. The Education Officer has to consider as to who is the senior most eligible teacher to be appointed as an HM or Incharge HM.

5. In view of the above, this Petition is disposed off. We expect Respondent No.4 to consider the entire record pertaining to this school and the seniority of the teachers and only after being convinced that Petitioner No.1 is the senior most and eligible teacher, he may grant approval, only as Incharge HM. If there are any objections from any teachers or any stakeholders, these objections would be considered by the Education Officer on their own merits.

6. In the event, the earlier Headmistress Smt. Dropadi Lokhande is in employment and is officiating as a HM or is protected by any order of the Court, there would be no question of replacement.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]