

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.4023 OF 2020

SUNANDA RAMCHANDRA KALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr.S.R. Barlinge, Advocate for the Petitioners.
Mr.S.P. Tiwari, AGP for Respondent Nos.1 and 2.
Mr.P.D. Suryawanshi, Advocate for Respondent Nos.3 and 4.
Mr.Sachin S. Deshmukh, Advocate for Respondent No.6.

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 19th APRIL, 2023.**

PER COURT :-

1. The Petitioners are the employees of Respondent No.6 School. All of them were deployed at the said school. There is no dispute that all of them are permanent in employment and approvals have been granted.

2. Considering the issue that has cropped up and the order that we are passing, it is not necessary to advert to all the contentions of the litigating parties. It would suffice by recording that the said school suffered cancellation of its recognition by order dated 11.05.2017 issued by Respondent No.2. The management appealed to Respondent No.1 under section 53(1) of the Rights of Persons with Disabilities Act, 2016, dated 15.06.2017. Prayer A was to the extent of seeking quashment of the order of Respondent No.2 dated

11.05.2017, cancelling the registration of the school. Prayer clause AA was for seeking permission to operate the school at Majalgaon, which is 150 kms away from Naldurg, where the school was situated. Needless to state, the cause of action that took the management to respondent no.1 Minister was the order dated 11.05.2017 passed by Respondent No.2. It is equally undisputed that there was no issue before Respondent No.2 to shift the school to Majalgaon owing to cancellation of it's registration by order dated 11.05.2017. The appeal was, therefore, restricted to the impugned order dated 11.05.2017.

3. Vide a cryptic single sentence order, running into 8 lines, passed by the Minister for Social Justice dated 12.10.2017, the appeal was partly allowed and the impugned order dated 11.05.2017 was set aside. The registration of the school was thus restored. However, permission to shift the school to Majalgaon was granted.

4. The further controversy lies in the order dated 08.03.2019 passed by the same Minister for Social Justice and Special Assistance, which is a two sentences order granting permission to the management to change the purpose of the school to the Mentally challenged at Majalgaon. This order was passed in different proceedings initiated by the same management by mentioning the address of the school as Majalgaon. The Petitioner

contends that change of address is only to create a make believe picture that there exists a school for the disabled students at Majalgaon, when factually the Chairman of the same Management is a resident of Majalgaon. The learned Advocate for the Management submits that this is on account of the Minister permitting the school to be operated at Majalgaon.

5. The Management of the school is agreeable for a rehearing before Respondent No.1, if this Court is inclined to set aside the order dated 12.10.2017. The Petitioners are agreeable for such hearing on the condition that they may be impleaded as Respondents since the management appears to have an influence which has resulted in moving the school under an unprecedented order of the Minister from Naldurg, Tq. Tuljapur to Taluka Majalgaon, Dist.Beed, which is 150 Kms. away.

6. We find that the impugned order is not only cryptic, but is completely bereft of even a single reason and especially for permitting transfer of the school which was meant for the Orthopedically challenged students at Naldurg, to Majalgaon where subsequently the same Minister passed the order dated 08.03.2019 changing the character of the school and converting it into a special school for mentally challenged students.

7. In view of the above, **this petition is partly allowed.**

The impugned order dated 12.10.2017 stands quashed and set aside and the appeal proceeding initiated by the Management Respondent Nos.5 and 6, is restored to the office of Respondent No.1. Consequentially, the order dated 08.03.2019 also stands quashed and set aside. In addition, we issue the following directions :-

(a) The Petitioners shall be arrayed as non-applicants in the appeal before Respondent No.1, by the said management. The amended copy of the appeal memo shall be filed before Respondent No.1 on or before 31st May, 2023.

(b) By consent, the copy of the amended appeal memo along with the documents shall be served on Petitioner no.1 on behalf of all the Petitioners.

(c) All these litigating parties shall appear before Respondent No.1, on 22nd June, 2023 at 12 noon.

(d) In the event, there are vacancies available in any special schools, the Petitioners submit that they are willing to be absorbed in any such special schools in Solapur, Latur or Osmanabad districts.

(e) After granting reasonable opportunity of hearing to all the parties, Respondent No.1 would pass an order with reasons, on or before 31st August, 2023.

(f) The mentally challenged students at Majalgaon would be

continued in the same institution, as a stop gap arrangement, under the strict supervision of the District Collector, Beed and District Social Welfare Officer, Beed. The District Social Welfare Officer, Beed would report the affairs of the institution, to the District Collector, Beed, on daily basis.

(g) The then existing Headmaster of the school at Naldurg who is said to be now working at Majalgaon, is authorized under this order to submit bills of such months for which salaries are not paid to the teaching and non-teaching staff of the school at Naldurg, to the District Social Welfare Officer at Osmanabad, who shall follow the due procedure of law and get the bills sanctioned, since none of these employees are at fault. The salary bills shall be cleared within 30 days.

(h) Needless to state, after clearance of the bills, the amounts shall be paid to the concerned teaching and non-teaching staff, save and except, any of them who is deployed in employment and are drawing salary. In short, such employees would not receive double payment.

(I) All contentions of the parties are kept open to be considered by Respondent No.1.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)