

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.785 OF 2021
WITH
CIVIL APPLICATION NO.9752 OF 2021
IN WP/785/2021**

**SUDHAKAR MADHUKAR SHELKE
VERSUS
STATE OF MAHARASHTRA AND OTHERS**

**AND
WRIT PETITION NO.6933 OF 2021
WITH
CIVIL APPLICATION NO.9176 OF 2021
IN WP/6933/2021
WITH
CIVIL APPLICATION NO.9753 OF 2021
IN WP/6933/2021**

**JAI HIND VIDYA PRASARAK MANDAL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner in WP/785/2021 : Shri Sachin S.
Deshmukh
Advocate for the Petitioner in WP/6933/2021 : Shri N.L. Jadhav
AGP for the Respondents/State : Shri S.G. Sangle
Advocate for the Intervenors in CAs : Shri R.C. Bramhankar
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 27th January, 2023

Per Court :-

1. The first Writ Petition No.785/2021 is filed by the petitioner (Sudhakar Madhukar Shelke), a member of the non-teaching staff, requesting this Court to implement the order of the Education Officer dated 30.07.2019.

2. The second Writ Petition No.6933/2021 is filed by the purported management claiming that the petitioner (Sudhakar) has been terminated in 2013.

3. Having briefly considered the submissions of the learned advocates for the petitioners in these petitions, the learned advocate for the intervenors and the learned AGP, we, prima facie, find as under :-

(a) The petitioner (Sudhakar) alleges that he has not been allowed to work by the Management from 2013.

(b) There is a rift between the Headmaster and the Management.

(c) The Headmaster has purportedly restrained Sudhakar from reporting for duties for the last more than nine years.

(d) The Management appearing in the second petition, boldly claims that Sudhakar has been orally terminated from

employment.

(e) Sudhakar contends that the petitioner in the second petition is not the Management.

(f) Sudhakar contends that there is only one governing council in the Management and there are no two factions amongst the government council members or the trustees.

(g) Without Sudhakar approaching the School Tribunal under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the Education Officer Shri Bhagwan Sonwane, has issued an order directing the Management to reinstate Sudhakar in service with back wages.

(h) The applicant/intervenor in Civil Application No.9753/2021 claims that he is working as the Junior Clerk in place of Sudhakar, from 01.01.2013.

4. Considering the above, we are required to take into account that Sudhakar desires that this Court should execute the order of the Education Officer.

5. This Court cannot assume the role of becoming an executing authority. Moreover, if at all this Court is to issue the direction that the order of the Education Officer should be

implemented, in the backdrop of the admitted position that Sudhakar is refused employment and orally kept out of employment from 2013, whether, the Education Officer could have passed the order directing his reinstatement in service without a challenge to his termination before the School Tribunal.

6. The learned advocate representing Sudhakar submits, on instructions, that Sudhakar would prefer an appeal before the School Tribunal in the light of the bold admission of the Management that Sudhakar has been orally terminated from employment.

7. In view of the above, Writ Petition No.785/2021 filed by Sudhakar Shelke stands disposed off with liberty to approach the School Tribunal. The time spent by the petitioner (Sudhakar) in litigation with the Management in this Court, would be a ground for considering the application for condonation of delay.

8. In view of the above, the learned advocate for the petitioner seeks leave to withdraw this petition. Writ Petition No.6933/2021 is, therefore, disposed off as withdrawn, on instructions, without deciding the issue as to whether, the

petitioner in Writ Petition No.6933/2021 is the Management or not.

9. The pending Civil Applications do not survive and stand disposed off.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)