

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO.408 OF 2023

RAVINDRA BHASKAR SONWANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS

...
Advocate for Petitioner : Mr. Ajay D. Pawar
AGP for Respondents 1 to 4: Mr. V.M. Kagne
Advocate for Respondent No.5 : Mr. Abasaheb D. Shinde
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 19th JANUARY, 2023.**

PER COURT :-

1. The petitioner has put forth prayer clauses "B" and "C" as under:-

"B. To quash and set aside, impugned order dated 21.11.2022 passed by the respondent No.4 Education Officer (Secondary), Zilla Parishad, Jalgaon, thereby rejecting the proposal in favour of the petitioner being appointed as a Headmaster of Satpuda Madhyamik Vidyalaya, Naygaon, Tq. Yawal, District Jalgaon by issuing writ of certiorari or any other appropriate writ or direction as the case may be;

C) The respondent No.4 Education Officer may kindly be directed to grant approval in favour of the petitioner as a permanent Headmaster of Satpuda Madhyamik Vidyalaya, Naygaon, Tq. Yawal, District Jalgaon w.e.f. 1.8.2019 i.e. the date of appointment) and also grant all consequential benefits including the payment of salary for the post of Headmaster

and difference of pay scale, by issuing writ of mandamus or any other appropriate writ or direction as the case may be.”

2. The impugned order dated 21.11.2022, passed by the Education Officer (Secondary), viz. Dr Nitin Popatrao Bacchav, indicates that since there was a dispute amongst the groups in the management of the Trust, he did not approve the proposal recommending the petitioner as Head Master of Satpuda Madhyamik Vidyalaya, Naygaon.

3. Having considered the strenuous submissions of the learned advocates for the respective sides, we have perused our order dated 25.07.2022, passed in writ petition No. 6474 of 2022, filed by the present petitioner. In the said order, we have noted in paragraph Nos. 2, 3 and 4, as under:-

2. We have considered the submissions of learned counsels for the respective sides for some time and have perused the record available. Admittedly, there are two factions in the management of respondent No.4 education society. There are several cases pending between the two factions. The learned AGP submits that it is not definite as to which faction has filed the proposal seeking permanent approval for the petitioner which is presently lying before the education officer.

3. We would not like to go into disputed questions and surely not into rival claims of two factions who are battling for supremacy over the education society. Suffice it to say, that

the school cannot be operated without a Headmaster. The Education Officer needs to investigate into the matter and ensure that a regular Headmaster is appointed.

4. In view of the above, this petition is disposed off with a direction to respondent No.3 to consider the proposal dated 09/08/2019 forwarded by the management to the Education Officer seeking permanent approval in favour of the petitioner, on it's own merits and by hearing all the stake holders who are concerned with the said matter. Let such decision be arrived at, on or before 15-10-2022."

4. The learned A.G.P. representing the Education Officer submits that the impugned order is not a result of any malafide intention on the part of the Education Officer. The dispute between two groups in the Trust came before this court in writ petition No. 2677 of 2018. By an order dated 13.3.2018, this Court issued notices to the litigating parties and directed the status quo to be maintained and no further precipitative action be taken. The learned A.G.P. submits that the Education Officer interpreted this order to mean that there is status quo and hence he is not supposed to pass any order as there is a tussle between two groups in the Trust.

5. The concerned Education Officer has tendered a personal affidavit in which an unconditional apology has been tendered. It is submitted by the learned A.G.P. that the Education Officer should have passed a reasoned order rather than summarizing the whole issue in a single sentence.

6. Considering the above and since the learned advocates for the respective sides submit that the apology of the Education Officer be accepted, that we refrain from issuing further directions. Needless to state, the concerned Education Officer should have either adverted to the history of litigation between the parties in the order, since it is his contention that he interpreted the order dated 13.03.2018 passed by this Court directing him to maintain the status quo, or the other option was that he should have moved this Court in the said writ petition No. 2677 of 2018 and requested for leave of the court to pass an appropriate order.

7. The Educational Trust, respondent No.5 is represented by the learned advocate Shri. Shinde who submitted that he represents the management of the Trust whose names are set out in Schedule-I. There are 28 schools, which are being operated by the Trust. Amongst Scheduled Caste category employees, the petitioner is senior most teachers and he would be entitled to be the Head Master. The management would appreciate if the Education Officer considers the entire record of the seniority of teachers and the fact that the petitioner belongs to the S.C category, and thereafter, pass an order granting approval.

8. In view of the above, this petition is partly allowed. The impugned order dated 21.11.2022 is quashed and set aside. The

proposal forwarded by respondent No.5 be reconsidered by the Education officer and after perusing the entire record pertaining to the seniority of teachers and if he concludes that the Petitioner is the senior most teacher from the Scheduled caste category and considering the roster, is eligible, he would grant approval to the appointment of the petitioner as Head Master of Satpuda Madhyamik Vidyalaya, Naygaon. Let a reasoned order be passed, on or before 15.03.2023.

9. We make it clear that, we have not expressed any opinion about the merits of the claim of the petitioner and we leave it entirely to the Education Officer to consider the record in the light of the Rules, Laws and the policies applicable and take an appropriate decision.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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