

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.761/2023

GOPINATH RAJARAM KALE

... PETITIONER

Versus

**THE STATE OF GOA THR.
CHIEF SECRETARY & 4 ORS.**

... RESPONDENTS

Mr D. Lawande with Mr A. Kuncoliencar, Advocates for the Petitioner.

Mr S. Samant, Additional Government Advocate for the State.

Mr Datta Nadkarni, Respondent No.4, representing Respondents No.3 and 5.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 6th NOVEMBER 2023

P.C.:

1. Mr D. Lawande appears along with Mr A. Kuncoliencar for the petitioner and Mr D. Samant, Additional Government Advocate appears for the first and second respondents.
2. Mr Datta Nadkarni represents respondents no.3, 4 and 5. In fact he is respondent no.4 in this petition.
3. On 17.10.2023 we made the following order:-

“1. Heard Mr D. Lawande for the Petitioner, Mr S. Samant, learned Additional Government Advocate for the

State and Mr Datta Nadkarni, Manager of School Managing Committee (Resp. No.4) appears in person. He says that he will also appear for Respondent Nos.3 and 5.

2. Mr Nadkarni seeks about eight days' time by submitting that the management will reconsider its position and decide upon the further course of action.

3. Accordingly, we place this matter for further consideration on 06.11.2023.

4. The management to communicate its decision to the petitioner and also place the same on record by the next date. It is made clear that no further notices will be served on respondents no.3, 4 and 5.

5. If the management decides maintaining the impugned notice, then, it should file its response to the petition by the next date by serving an advance copy upon the learned counsel for the petitioner.

6. Stand over to 06.11.2023.”

4. Mr Datta Nadkarni has filed an affidavit on behalf of respondents no.3, 4 and 5 which reads as follows:-

“The Respondents above named most respectfully state and submit as under:

The Order of compulsory retirement issued by the management under No.HTHS/PER/2023-24/103 Dated:- 14/08/2023 is hereby withdrawn as the mandatory section of the Directorate of Education was inadvertently not obtained.

Management reserves the right to initiate service proceedings in accordance with Law.”

5. Mr Nadkarni states that the impugned order of compulsory retirement dated 14.08.2023 which was impugned in this petition now stands withdrawn. However, he points out that the management reserves the right to initiate service proceedings against the petitioner in accordance with law.

6. At this stage, Mr Lawande points out that the impugned order in this case is dated 07.08.2023 (Annexure A Colly – page 56 of the paper book) and it was received on 14.08.2023. Mr Nadkarni accepts the above position and says that what has been withdrawn is the order dated 07.08.2023 which was received on 14.08.2023.

7. Now that the impugned order dated 14.08.2023 stands withdrawn, the reliefs in this petition stand worked out. At the same time, liberty is granted to respondents no.3, 4 and 5 to take such steps as are available under the law concerning the petitioner. At the same time, if such steps are taken, all rights and contentions of the petitioner are also kept intact and open.

8. This petition is disposed of. There shall be no order for costs.

9. All concerned to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

SUCHITRA
NANDAN
SINGBAL
Digitally signed by
SUCHITRA NANDAN
SINGBAL
Date: 2023.11.07
10:53:51 +05'30'