

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15963 OF 2022

Sadguru Jangli Maharaj Shikshan Sanstha
& Another .. Petitioners.
v/s.
The State of Maharashtra
& Others .. Respondents.

Mr. N. V. Bandiwadekar, Sr. Advocate i/b. Ms. A. N. Bandiwadekar, for the
Petitioners.
Mr. S. B. Kalel, AGP for Respondent Nos. 1 to 3-State.
Mr. Vinod Sangvikar with Mr. Yogesh Morable and Nikita Bhosale, for
Respondent No.4.

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**CORAM: A.S.CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ.**
DATE : 29th NOVEMBER, 2023.

PC:-

RULE. Rule made returnable forthwith.

2 The 4th Respondent was employed at the Petitioner No.2-School, Satara by the Petitioner No.1-Trust on the post of peon.

3 During service, an enquiry was held against the 4th Respondent by invoking provisions of the Maharashtra Employees of Private Schools (Conditions of Service), Rules, 1981 (“the Rules of 1981”). On completion of that enquiry, the service of 4th Respondent was terminated on 9th April, 2020.

4 Being aggrieved, the 4th Respondent approached the Regional Deputy Commissioner, Social Welfare Department, Pune and sought to challenge the order of termination. By a communication dated 14th November, 2022, the Regional Deputy Commissioner directed the Petitioner to reinstate the service of the 4th Respondent. Being aggrieved, the Management has challenged the said communication dated 14th November, 2022.

5 After hearing the learned Counsel for the parties, we find that, since the enquiry proceedings against the 4th Respondent were held under the Rules of 1981 and his services were terminated, a remedy under Section 9 of the Maharashtra Employee of Private Schools (Conditions of Service) Regulation Act, 1977 is available to the 4th Respondent to challenge the order of termination. Instead of availing of that remedy, the Petitioner approached the Regional Deputy Commissioner who had no jurisdiction to entertain the proceedings. Our attention is invited to the order passed in Writ Petition No.4353 of 2022 (Sadguru Jangli Maharaj Shikshan Sanstha, Kapuskhed & Another v/s. State of Maharashtra & Others) decided on 17th August, 2022 which proceedings arose in the somewhat similar circumstances.

6 We thus find that the impugned communication dated 14th November, 2022 issued by the 2nd Respondent is without jurisdiction and, the same is liable to be quashed. Respondent No.4 ought to invoke the statutory remedy available in that regard. Accordingly, the following order is passed:-

- (i) Communication dated 14th November, 2022 issued by the Regional Deputy Commissioner, is hereby quashed and set aside;
- (ii) The communication dated 14th February, 2023 appointing an Administrator to take over the affairs of Petitioner No.2-School on the ground that the order dated 14th November, 2022 passed by the Regional Deputy Commissioner had not have been implemented, is also set aside. However, it is clarified that it would be open for the Respondent Nos. 1 & 2 to take steps in accordance with law in the matter of appointment of an Administrator, if such case is made out;
- (iii) The Respondent No.4 is at liberty to file an Appeal under Section 9 of the Act of 1977, within a period of four weeks. If such Appeal is filed, the same shall be entertained on merits without going into the question of delay.

7 Keeping all points on merits open, the Writ Petition is disposed of in the above terms.

(FIRDOSH P POONIWALLA,J.)

(A.S. CHANDURKAR,J.)