

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 2904 OF 2022

Lokshahir Annabhau Sathe Shikshan Prasarak
Mandal, Pandharpur through its President. ... Petitioner.
V/s.

The State of Maharashtra and others. ... Respondents.

Mr.Rajeshwar G. Panchal for the Petitioner (through VC).
Mr.S.B.Kalel, AGP for Respondent Nos.1, 2 and 4.
Mr.Umesh Kulkarni for Respondent No.5.

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CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.

DATE : 20 March 2024.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner- Management has challenged the order passed by the Education Officer dated 16 February 2022 directing the Petitioner- Management to reinstate Respondent No.5 on the post of Head of the School and to give him all signing powers.

3. This order is clearly without jurisdiction. The impugned order itself refers to dismissal of the services of Respondent No.5. Against the order of termination, a substantive remedy in the form of appeal is provided under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service)

Regulation Act, 1977. Respondent No.4- Mr.Bhaskarrao Babar being the Education Officer would be aware of this position, yet he has issued direction akin to reinstatement. Therefore, since this is an abuse of power, the Petitioner has joined Respondent No.4 as party respondent by name.

4. While issuing notice on 30 June 2022, this Court has stayed the operation of the impugned order. The learned counsel for the Petitioner- Management informs that an appeal is filed before the School Tribunal against the termination order.

5. In light thereof, the impugned order dated 16 February 2022 will have to be quashed and set aside and is accordingly set aside. The merits of the action of the Petitioner- Management of terminating Respondent No.5 are kept open to be considered in the appeal that is filed.

6. As regards the conduct of Respondent No.4- Education Officer Mr. Bhaskarrao Babar, we place on record that the impugned order was an abuse of process of law which either shows defiance of settled position of law or complete ignorance of the legal position. Any such further conduct on the part of Respondent No.4 would be viewed seriously.

7. Writ petition stands disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)