

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 14116 OF 2023

Rasika Ram Parab

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. Rahul S. Kadam for the Petitioner

Mr. B.V. Samant, Addl. G.P. with Ms. Nisha Mehra, AGP for the
Respondent Nos. 1 and 2

Mr. Deepak R. More with Shivram A. Gawade for Respondent No.4

Mr. S.S. Kanetkar for Respondent No.5

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 10 JANUARY 2024

P.C. :-

Heard the learned Counsel for the parties.

2. The grievance of the Petitioner is that pursuant to the order dated 28 July 2023, the Petitioner having been declared surplus has been allotted to Respondent No.6 – Samata Balak Mandir Shikshan Sanstha from its old employer, Respondent No.5 – Nehru Shikshan Sanstha. The learned Counsel submits that having

been absorbed in the new management - the Respondent No.6, the Respondent No.5 – the earlier management where the Petitioner was working would have no power to institute an enquiry and on that ground the salary is not being paid to the Petitioner.

3. The Petitioner seems to proceed on the basis that the Petitioner has been permanently absorbed in the Respondent No.6 – management and has no connection left with the Respondent No.5. However, the order of absorption indicates otherwise which only states that the Petitioner has been absorbed in the new school temporarily and the liability to pay the salary of the Petitioner would be on the Respondent No.5.

4. Since there is no severance of relationship of employer – employee between the Petitioner and the Respondent No.5 as on today, we cannot accede to the request of the Petitioner that Respondent No.5 should be prohibited from instituting/continuing with the enquiry. In the enquiry, the Petitioner will have all the opportunity to put forth its say and all contentions in that regard are kept open.

5. Since the position is that the relationship of employer employee between the Petitioner and the Respondent No.5 as on today is not severed, the Respondent No.5 is under obligation to pay the salary/subsistence allowance as the case may be to the Petitioner.

6. The Writ Petition is accordingly disposed of.

7. The learned Counsel for the Petitioner states that the Petitioner may be permitted to approach the Education Officer, Zilla Parishad with a request that the Petitioner may be permanently absorbed in Respondent No.6. It is for the Petitioner to make this request and it is for the Education Officer to decide as per the prevailing rules and regulations and the list of the teacher that is to be maintained, we leave that decision to the Education Officer.

M.M. SATHAYE, J.

NITIN JAMDAR, J.