

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12112 OF 2024

Gramoday Samiti Kurduwadi And Anr

...Petitioners

Versus

The State Of Maharashtra And Ors

...Respondents

Mr. Vinayak Kumbhar i/b. Ms A. N. Bandiwadekar for the Petitioners.

Mr. V. G. Badgujar, AGP for the Respondent No. 1-State.

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

DATED : 20 SEPTEMBER 2024

P.C.:

1. The Petitioner-Management has challenged the order passed by the Respondent No. 2-Education Officer, Mr. Sachin Jagtap dated 8 August 2024, directing the Petitioners to re-instate the Respondent No. 3, subject to the pending appeal in the School Tribunal, Solapur filed by the Respondent No. 3.
2. Leave is granted to join the Respondent-Education Officer by name. Amendment to be carried out during the course of the day.
3. Issue notice to the Respondent Nos. 3 & 4, returnable on 8 October 2024.
4. Learned Counsel for the Petitioners points out that it is the case of

the Petitioners that Respondent No. 3 remained absent from duty and was removed from the service by communication dated 29 November 2023. This action of the Petitioner–Management is challenged by Respondent No. 3 in the School Tribunal, Solapur, by filing an Appeal and also that Respondent No. 3 has prayed for an interim order, and no interim order is granted by the Tribunal. Thereafter, it appears that Respondent No. 3 has approached Respondent No. 2-Education Officer - Sachin Jagtap, who has directed reinstatement pending the Appeal.

5. This Respondent-Education Officer has exercised powers of the School Tribunal of interim order when no such powers exist with the Education Officer. The employer-employee relationship between the Petitioners and Respondent No. 3 is governed by the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the rules framed thereunder. A statutory tribunal has powers to grant reinstatement and interim orders.

6. While the proceedings are pending before the School Tribunal, the Respondent No. 2-Education Officer could not have issued an interim order, which only the School Tribunal could have. An education officer is supposed to have domain expertise in understanding this basic position of law. This fact will be explained by the said Respondent – Education Officer by filing an affidavit.

7. In light thereof, till further order, the impugned order passed by the

Respondent-Education Officer dated 8 August 2024 shall remain stayed. However, this will not preclude the School Tribunal from proceeding further in the interim application filed by Respondent No.3 on its own merits.

8. Stand over to **8 October 2024**.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)