



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.8269/2023

Ku. Jyoti d/o Mahadeorao Zade

Vs.

Education Officer (Secondary), Zilla Parishad, Washim and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.R. Agrawal, Advocate for petitioner
Shri V.A. Thakare, AGP for respondent Nos.1 to 3
Shri N.B. Kalwaghe, Advocate for respondent No.4
Shri P.S. Patil, Advocate for respondent No.5 through V.C.

**CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ..**

DATED : 29/04/2024

Heard Shri P.R. Agrawal, learned Counsel for the petitioner, Shri V.A. Thakare, AGP for respondent Nos.1 to 3, Shri N.B. Kalwaghe, learned Counsel for respondent Nos.4 and 7/President, Shri P.S. Patil, learned Counsel for respondent No.5 and 7/Secretary (through Video Conference), Shri A.J. Gilda, learned Counsel for the respondent No.6 is absent.

2. The petition questions the order dated 29/11/2023 passed by the respondent No.1 (page 112-A) by which the financial powers of the petitioner has been withdrawn on account of she having recovered admission fees from the students, contrary to the Rules and deposited in her account.

3. With the assistance of the learned Counsel for petitioner and respondents, we have perused the impugned

order. What we find is that the same has been passed on the complaint of the respondent No.4 and some students, in pursuance to which, an inquiry was initiated and an explanation was called from the petitioner.

4. Considering the grave nature of the allegations, it was expected from the respondent No.1 to at least have conducted some sort of inquiry to inquire into the veracity of the allegations made against the petitioner. However, it appears from a bare reading of the same, that no such thing has been done, rather on the contrary, the order appears to have been passed, based merely upon a presumption of guilt against the petitioner, on her having failed to place her account statements on record. This would clearly indicate, that without testing the veracity of the allegations as made by respondent No. 4, the impugned order has been passed.

5. Though it is contented by the Shri Kalwaghe, learned Counsel for respondent No.4 that an Enquiry Committee was constituted, who had submitted a report, the consideration of that report, is also not reflected from the impugned order. That being the case, the order dated 29/11/2023 cannot be sustained and is hereby quashed and set aside. The matter is remitted back to respondent No.1 to decide the issue afresh after giving opportunity to both the parties, including an opportunity based on the plea of absence of authority and jurisdiction in the respondent No.1 to inquire into and decide the allegations made by the respondent No.4 before him.

6. The parties shall appear before the respondent No.1 on 07/05/2024, who shall decide the controversy before him including the preliminary objection regarding his authority to do so within a period of four weeks therefrom.

7. The present Writ Petition is accordingly allowed in above terms. No order as to costs.

8. Interim order dated 15/12/2023 to continue till 07/05/2024.

(SMT. M.S. JAWALKAR, J.) (AVINASH G. GHAROTE, J.)

R.S. Sahare