



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1642 OF 2025

SANTOSH DANGAL JADHAV AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Sachin S. Deshmukh

AGP for Respondent/s – State : Mr. S.N. Kendre

Advocate for Respondent No. 4 : Mr. V.D. Hon (Senior Advocate)

i/b. Mr. A.V. Hon and Mr. Vivek Dhage

Advocate for Respondent No. 5 : Mr. R.I. Wakade

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CORAM : R.M. JOSHI, J.

DATE : 04th FEBRUARY, 2025

PER COURT :

1. Learned counsel for the petitioner seeks urgent relief of stay to the impugned order of Education Officer granting approval to respondent no. 5 as In-charge Head Mistress of school namely Adarsh High School and Junior College, Taluka Kusumba, District Dhule.

2. It is the contention of the learned counsel for the petitioner that as far as the appointments of approvals of the In-charge Head Masters in this Educational Institute is concerned, all throughout consistently, the procedure is followed of issuing notices to all concerned likely to be affected by order before granting such approval by the Education Officer. In this regard, reference is made to two of such notices issued by the Education Officer. There is specific allegation that as far as present approval is concerned in favour of respondent no. 5 no such notice was issued to the teachers who were otherwise eligible to become In-charge Headmaster. Thus, it is his

contention that on the face of it the order of Education Officer is not in consonance with the procedure adopted till date. According to him there was no reason much less on any jurisdiction for Education Officer to deviate from the procedure adopted in the past. He has further grievance that the order of approval is granted with retrospective effect to suit convenience of respondent no. 5. It is his grievance that with the help of police, the respondent no. 5 has sought to take over the charge.

3. Learned counsel for respondent no. 5 sought time to file reply. He, however, opposed grant of any relief on ground of maintainability of petition on the two counts. Firstly, it is his contention that since the order of Education Officer is administrative order, the same cannot be challenged before the Single Judge. He also drew attention of the Court to the government resolution dated 23.08.2017 in order to contend that alternative remedy of appeal has been provided against the order impugned. These contentions sought to be raised by respondent no. 1 can be considered at the appropriate stage of hearing.

4. On merit, learned counsel for respondent no. 5 has drawn attention of this Court to two documents which are purported no objections given by the petitioners for the appointment of respondent no. 5 as In-charge Headmistress. The counsel for petitioner resists the said claim. Respondent no. 5, therefore, directed to file affidavit supporting the said documents.

5. On the face of it, it seems that same Education Officer who earlier had issued notices on 09.05.2024 as well as 13.09.2024 while making appointment of In-charge Headmaster, issued to the other concerned employees. When a specific query was made to the learned counsel for respondent no. 5 as to whether any such notice was issued in this case, he replied that even respondent no.5 did not receive any such notice. This indicates that the Education Officer has deviated from the procedure which is

otherwise adopted by him. Moreover, there is no reason recorded for non issuance of notice at this time. Thus this is reason to accept the contention of counsel for the petitioner that the order impugned passed may not be sustained. Moreover, the implementation of order sought through help of police is highly objectionable.

6. This Court, therefore, finds it to be a fit case to stay the order impugned till next date, so that the parties can be given an opportunity to make out their respective case on merit. Hence, there shall be stay to the impugned order dated 30.01.2025 passed by the Education Officer till the next date of hearing.

7. Issue notice to respondents, returnable on 24.03.2025. Learned Senior Counsel Mr. V.D. Hon instructed by Mr. A.V. Hon and Mr. Vivek Dhage, waives service of notice for respondent no. 4. Learned counsel Mr. R.I. Wakade, waives service of notice for respondent no. 5.

(R.M. JOSHI, J.)