



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1730 OF 2023**

Rayat Shikshan Sanstha and anotherPetitioners

Vs.

Ramesh Ramchandra AraneRespondent

Mr. N. V. Bandiwadekar, Senior Advocate i/b Mr. Milind Deshmukh a/w
Mr. Shailesh Chavan for the petitioners

Mr. Satish Muley a/w Mr. Mosin Naik for respondent no. 1

Mr. A. P. Vanarase, AGP for respondent nos. 2 to 5

**CORAM : GAURI GODSE, J.
DATE : 3rd JANUARY 2024.**

P.C.

1. Heard. Rule.
2. Mr. Satish Muley waives service on behalf of respondent no. 1 and learned AGP waives service for respondent nos. 2 to 5.
3. By order dated 21st February 2023, this Court had directed that all proceedings pursuant to the impugned order and, as a consequence thereof, be stayed. By the said order, this Court further directed that until the petition is heard for admission, there would not be reinstatement of respondent no. 1, considering the alleged charges

against him.

4. Learned senior counsel for the petitioners submitted that charges against the respondent no. 1 are serious in nature and thus, it is necessary to stay the execution and operation of the impugned order. Learned senior counsel for the petitioners submitted that the School Tribunal was in error in examining the merits of the Disciplinary Inquiry proceedings. He submitted that if the execution and operation of the impugned Judgment and Order is not stayed, serious prejudice would be caused to the petitioner-management and there is a possibility of the students of the institution facing hardships. Hence, during the pendency of the petition, execution and operation of the impugned Judgment and Order be stayed.

5. Learned counsel appearing for respondent no. 1 opposes the grant of any interim relief. He submitted that respondent no. 1 has been out of the job for the last three years and serious prejudice would be caused to him if the impugned order is stayed. In support of his submissions, he relied upon the findings recorded by the Tribunal with respect to the report of the Inquiry Committee. He submitted that the

complaint against respondent no. 1 was based on the complaint of moral turpitude. However, the management did not examine the victim girl before the Inquiry Committee. He further submitted that before the police, the statement of the victim girl was recorded, wherein she stated that she did not have any grievance. He thus submitted that by the impugned order, the Tribunal has rightly not relied upon the Inquiry Committee report and has rightly observed with respect to the fairness of the entire procedure of the Inquiry Committee. Learned counsel further relied upon certain documents annexed to his affidavit-in-reply and contended that since respondent no. 1 was a whistle-blower and certain incidents had occurred, respondent no. 1 was falsely implicated.

6. I have perused the impugned Judgment and the relevant documents. So far as the submissions based on the findings recorded in the impugned judgment regarding the Inquiry Committee's report are concerned, the same is on the merits of the impugned judgment, which will be decided at the time of the final hearing of the petition. A perusal of the impugned judgment further indicates that there are also

two other charges against respondent no. 1, regarding which there was an inquiry, and based on the inquiry report, respondent no. 1's services were terminated. The other charges are regarding financial irregularities and negligence in performing duties.

7. After going through the record, prima facie, there is merit in the submissions made on behalf of the petitioner, and thus, the petition is admitted for final hearing. Though, the learned counsel for respondent no. 1 relied upon certain documents of the affidavit-in-reply, he was unable to show that the same were part of the proceedings of the Tribunal.

8. By the impugned order, the dismissal of respondent no. 1 from his services is quashed and set aside, and there is a direction to reinstate respondent no. 1 with continuity in service and full back wages. Thus, it is necessary to stay the execution and operation of the impugned order during the pendency of the petition. Needless to record that in the event the impugned order is confirmed, respondent no. 1 will be entitled to the monetary benefits as per the impugned order. Hence, there would not be any prejudice caused to respondent

no. 1 if the execution and operation of the impugned order is stayed at this stage. Per contra, if the impugned order is not stayed, it may expose the institution's students to a vulnerable situation. At the same time, there will be prejudice to the petitioners, and the management will also face hardships. Since the impugned order concerns reinstatement of respondent no. 1 as a headmaster in the school, it is also necessary to keep in mind that it is the responsibility of the educational institution to respect the children's rights and create emotionally and socially secure environment based on trust, balance and mutual respect. Hence, it is necessary that during the pendency of the petition, there should be stay to the execution and operation of the impugned Judgment and Order.

9. Hence, during the pendency of the petition, there will be interim relief in terms of prayer clause (c), which reads thus:

“(c) Pending the hearing and final disposal of the present Writ Petition, this Hon’ble Court may be pleased to stay the effect, operation, implementation and/or execution of the impugned judgment and order dated 06.05.2022 passed by the Ld. Presiding

Officer, Addl. School Tribunal, Navi Mumbai in
Appeal No. 02 of 2021 in the interest of justice”.

[GAURI GODSE, J.]