
(1983) 08 BOM CK 0032
In the Bombay High Court
Case No : Writ Petition No. 1120 of 1983

Oommen David

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 10-08-1983

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1984) 1 BomCR 153

Hon'ble Judges : M.N. Chandurkar, Acting C.J.; M.L. Pendse, J

Bench : Division Bench

Advocate : K.S. Ramaswamy and T.C. Philipose, for the Appellant; N.D. Bhatkar, A. G. P., for the Respondent

Judgement

M.N. Chandurkar, Actg. C.J.

1. This petition has been filed by a teacher who was in the employ of respondent No. 5 and was working as the Head Master of a School and was confirmed as such. However, by an order dated 2nd May, 1981 the Honorary General Secretary of the Society, respondent No. 4, terminated the services of the petitioner by payment of Rs. 7,020.30. Admittedly, the cheque for the said amount was not accepted by the petitioner and was returned by him.

2. The Deputy Director of Education, Nasik Division, respondent No. 2, by his letter dated 25th June, 1981 pointed out to the society that termination of the employment of the petitioner was not in accordance with the rules of the Secondary School Code and directed the society to revise those orders immediately. Finally, the Deputy Director of Education wrote to respondent No. 4 that the petitioner should be taken on duty immediately and that if the society failed to reinstate the petitioner drastic steps will have to be taken against the institution. It appears that the society was bent upon not implementing the direction of respondent No. 2. Admittedly, these directions have not been challenged by the society and the society was, therefore, duty-bound to comply with those directions unless those directions were set aside by the competent

authority.

3. The petitioner has now approached this Court for a writ directing respondents Nos. 1 and 2 to force respondents Nos. 4 and 5 to comply with the directions given by respondent No. 2.

4. The learned Assistant Government Pleader, who appeared for the first two respondents, has taken the stand before us that respondents Nos. 3 to 5 are bound to comply with the directions of respondent No. 2 and with a view to enforce compliance with the written directions in the matter of reinstatement of the petitioner, a notice has also been issued to the society as to why the school should not be de-recognised for non-compliance with the orders of the Education Department. According to the learned Assistant Government Pleader, no reply, however, has been given by the society. Mr. Ramaswamy, appearing on behalf of the petitioner, has argued that a writ must be issued to the school and the society running the school directing them to reinstate the petitioner. It is obvious that this request cannot be granted, because the school is a private body and it is also not receiving any grant from the Government. The only relief that is possible and must be given in the instant case is that respondents Nos. 1 and 2 must be directed to see that their decision is implemented by respondents Nos. 3 to 5.

5. Respondents Nos. 3 to 5 have not filed any return nor has anybody appeared on their behalf either today or on the earlier occasion when the petition was taken up for hearing. Since no valid excuse has been shown as to why the directions have not been complied with, we have no alternative but to make the rule absolute in terms of Clause (c) of the petition.

6. The rule is thus made absolute as indicated. However, there will be no order as to costs.