

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-269-2020**

The Chairman,
Centro Promotor de Instrucao,
Managing Committee of
Shri Mallikarjun Vidyalaya High School,
Canacoana- Goa.

... Petitioner

Versus

1. State of Goa
Through the Chief Secretary
2. The Director,
Directorate of Education,
Porvorim – Goa.
3. Shri Ashokkumar U. Desai
Headmaster (present under suspension)
Shri Mallikarjun Vidyalaya High Scheel
Canacona – Goa. ...Respondents

Mr. Chaitanya Padgaonkar, Advocate for the Petitioner.

Mr. D.J. Pangam, Advocate General with Mr. G. Shetye,
Additional Government Advocate for the Respondents/ State.

Mr. Pranay Kamat, Advocate for the respondent no.3.

**CORAM : M.S. SONAK &
SMT. M.S. JAWALKAR, JJ.
DATE : 19TH OCTOBER, 2020.**

ORAL JUDGMENT (PER M.S. SONAK, J.)

1. Heard Mr. Chaitanya Padgaonkar, learned Advocate for the petitioner, Mr. D.J. Pangam, learned Advocate General with Mr. G. Shetye, Additional Government Advocate for the Respondents no.1 and 2 and Mr. Pranay Kamat, Advocate for the respondent no.3.

2. We issue Rule in this petition and make the Rule returnable forthwith with the consent and at the request of the learned Counsel for the parties.

3. The challenge in this petition is to the order dated 29/09/2020, made by the Director of Education declining the application for extension to continue the suspension of the respondent no.3 pending the disciplinary proceedings initiated against the respondent no.3.

4. Mr. Padgaonkar, learned Advocate submits that the impugned order is made without affording opportunity of hearing to the petitioner, which, in the peculiar circumstances of the present case, was necessary.

5. According to us, in the peculiar facts of the present case, the petitioner ought to have been heard on the request of extension of the suspension of the respondent no.3. We set aside the impugned order and restore the petitioner's application seeking the extension before the Director of Education.

6. Mr. Padgaonkar, learned Advocate points out that the application for extension was only up to the end of this month. He further submits that the petitioner wishes to file an application seeking extension for a period of further three months in all. He states that such an application will be filed this week.

7. According to us, the interest of justice will be served if the applications which we have now restored and the petitioner will now file within one week, both should be disposed off by the Director of Education on their own merits and in accordance with law within a period of five weeks from today.

8. Such applications will have to be disposed of after giving an opportunity of hearing to both the petitioner as well as the respondent no.3 in the peculiar facts and circumstances of the present case.

9. Further, we permit the suspension of the respondent no.3 to continue pending decision by the Director of Education. However, we direct that, the petitioner will have to pay full salary and emoluments during this period because, for no fault attributable to the respondent no.3, the inquiry is being delayed. The arrears of salary will have to be paid in

respect of the period beyond 01/08/2019 because the approval for suspension was only upto 01.08.2019. The arrears will have to be cleared by the petitioner as expeditiously as possible and in any case, within a period of maximum four weeks from today.

10. We make it clear that we have not examined the rival contentions on merits and therefore, such rival contentions will have to be considered and disposed of by the Director of Education.

11. Mr. Padgaonkar, learned Advocate states that application for further extension will be positively filed within one week from today. Copies of the application for extension will also be forwarded to the respondent no.3 positively within a course of this week itself. There is also no reason for delaying the inquiry against respondent no.3.

12. Mr. Pranay Kamat, learned Advocate for the respondent no.3 agrees to accept this application on behalf of the respondent no.3.

13. The Rule in this petition is disposed off in the aforesaid terms. There shall be no order as to costs.

14. All concerned to act on the basis of an authenticated copy of this order.

SMT. M.S. JAWALKAR, J.

M.S. SONAK, J.