

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20____

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Original Application No. _____ of 20____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 26.12.2023</p> <p align="center">O.A. No.1617 of 2023</p> <p>P.S. PatilApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri S.S. Dere, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.</p> <p>2. Learned Advocate for the Applicant states that the Applicant had earlier filed O.A. No.877/2023 challenging Order dated 25.07.2023 by which he was posted as 'Education Officer (Scheme), Zilla Parishad, Ahmednagar'.</p> <p>3. Learned Advocate for the Applicant states that 'Interim Relief' was granted on 21.07.2023 to the Applicant and accordingly he was permitted to continue to work on the post of 'Education Officer (Secondary), Zilla Parishad, Nashik'.</p> <p>4. Learned Advocate for the Applicant thereupon states that by the Order dated 08.11.2023; the 'C.E.O., Zilla Parishad, Nashik' has taken away the charge of 'Education Officer (Secondary), Zilla Parishad, Nashik' from the Applicant and handed it over to the 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik'.</p> <p>5. Learned Advocate for the Applicant further states that the 'C.E.O., Zilla Parishad, Nashik' had sought advice from 'Principal Secretary, School Education and Sports Department' and on receipt of directions from 'Principal Secretary, School Education and Sports Department' has issued another Order dated 08.12.2023 confirming the earlier Order dated</p>

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	<p>08.11.2023 to continue with the arrangement of 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik' handling duties and responsibilities of 'Education Officer (Secondary), Zilla Parishad, Nashik'.</p> <p>6. Learned P.O. further states that the earlier order of 'C.E.O., Zilla Parishad, Nashik' dated 08.11.2023 has now been confirmed by 'Principal Secretary, School Education and Sports Department' and therefore this arrangement of handing over the charge of 'Education Officer (Secondary), Zilla Parishad, Nashik' now has approval of 'State Government'.</p> <p>7. Learned P.O. then states that order of the 'C.E.O., Zilla Parishad, Nashik' dated 08.11.2023 was issued consequent to 'F.I.R.' being registered against the Applicant under 'Sections 420,406,467,468,471 r/w. Section 34 of I.P.C. along with Section 8 of 'Maharashtra Public Service Reservation Act, 2001' at the 'Bhadrakali Police Station, District Nashik'.</p> <p>8. Learned Advocate for the Applicant thereupon states that subsequent to the Deputy 'Education Officer (Secondary), Zilla Parishad, Nashik' being given 'Additional Charge' of the post held by Applicant till 08.11.2023 and prior to subsequent Order of 'C.E.O., Zilla Parishad, Nashik' issued on 08.12.2023; the learned '5th Judicial Magistrate, F.C., Nashik' had issued an Order on 06.12.2023 to register FIR under Sections 193, 196, 198, 199, 200, 203, 204, 406, 420, 465, 468, 471, 477A of I.P.C. to conduct investigations against the 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik' as per provisions of 156(3) of 'Code of Criminal Procedure: 1973'.</p> <p>9. The Order dated 08.12.2023 of 'C.E.O., Zilla Parishad, Nashik' was passed after FIR was directed to be registered against the 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik' at 'Satpur Police Station District Nashik'. The 'C.E.O., Zilla Parishad, Nashik' by order of 08.11.2023 had taken away charge of the Applicant primarily on the ground that F.I.R. had been registered against him and handed it over to the</p>

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	<p>'Deputy Education Officer (Secondary), Zilla Parishad, Nashik'. The action so taken was subsequently ratified by Principal Secretary School Education & Sports Department resulting in the confirmatory Order of CEO 'Zilla Parishad, Nashik' dated 08.12.2023 However on 06.12.2023 as learned 5th Judicial Magistrate F.C. Nashik had passed order to register FIR against the 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik'. Thus in such situation the charge of 'Education Officer (Secondary), Zilla Parishad, Nashik' ought not to have been continued with the 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik' after 06.12.2023. The issue in this present case is whether registration of F.I.R. against any 'Government Servant' would render him ineligible to discharge his function and duties relating to the post on which he has been posted by orders of the 'Competent Authority' or it is mandatory to immediately take away his charge and assign it to any other 'Government Servant'. Further in the instant case were such powers delegated to 'C.E.O., Zilla Parishad, Nashik' by any 'Circular or Order' of either the 'School Education and Sports Department' or 'Rural Department' or provided under 'Maharashtra Zilla Parishad and Panchyat Samthi Act, 1961' & relevant Rules & Regulations framed by 'Rural Development Department'.</p> <p>10. The fact remains, that 'Interim Relief' had been granted to Applicant to 21.07.2023 which permitted him to continue working on the post of 'Education Officer (Secondary), Zilla Parishad, Nashik'. The F.I.R. which came to be registered against the Applicant on 02.11.2023 is a subsequent development. Hence if 'C.E.O., Zilla Parishad, Nashik' for certain reasons was required to immediately divest the Applicant of his charge and hand it over to 'Deputy Education Officer (Secondary), Zilla Parishad, Nashik' then an advisable course of action for 'C.E.O., Zilla Parishad, Nashik' to take would have been to seek vacation of 'Interim</p>

[P.T.O.]

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	<p>Relief' granted on 21.07.2023 to Applicant. Against this backdrop the acts of 'C.E.O., Zilla Parishad, Nashik' to pass orders on 08.11.2023 and 08.12.2023 to take away the change of 'Education Officer (Secondary), Zilla Parishad, Nashik' from the applicant are <i>prima-facie</i> contemptuous in nature. The 'Principal Secretary, School Education and Sports Department' was not expected to circumvent order of 'Interim Relief passed on 28.07.2023 and grant confirmation to Order of 'C.E.O., Zilla Parishad, Nashik' dated 08.11.2023. Hence, in the facts & circumstances of the case 'C.E.O., Zilla Parishad, Nashik' is directed to restore the '<i>status quo ante</i>' prior to Order dated 08.11.2023 and as per 'Interim Relief' granted on 21.07.2023 allow the Applicant to continue to work on the post of 'Education Officer (Secondary), Zilla Parishad, Nashik'.</p> <p>11. The office objections, if any, are to be removed and court fees to be paid, if not already paid.</p> <p>12. Issue notice before admission returnable on 09.01.2024.</p> <p>13. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.</p> <p>14. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.</p> <p>15. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>16. In case notice is not collected within <u>seven</u> days or service report on affidavit is not filed <u>three</u> days before returnable date, the Original / Miscellaneous Applications shall be placed on board before the concerned Benches under the caption "<u>for Dismissal</u>" and thereafter on the subsequent date the Original / Miscellaneous Applications shall stand dismissed.</p> <p>17. S.O. to 09.01.2024.</p> <p style="text-align: right;">Sd/- (Debashish Chakrabarty) Member (A)</p> <p>NMN</p>