

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3715 OF 2007**

Surendra Dattu Mane,
Age: 38 Years, Occu.: Service,
R/o. Satale Mala, Bahinai Niwas,
Near Ayodhya Theatre,
Yashwantnagar, Sangli.

.....Petitioner

Vs.

1. The Principal,
M. H. Shinde College,
Tisangi, Tal.-Gaganbavada,
District-Kolhapur.
2. The President,
Dnyansadhana Shikshan
Prasarak Mablal, Niwade,
Tal.-Gaganbavada, District-Kolhapur.
3. The Director Board of College
& University Development,
Shivaji University, Kolhapur – 416 004.....Respondents

WITH

WRIT PETITION NO.3717 OF 2007

Chougule Sunita Dhondiram,
Age: 33 Years, Occu.: Service,
R/o. Satale Mala, Bahinai Niwas,
Near Ayodhya Theatre,
Yashwantnagar, Sangli.

.....Petitioner

Vs.

1. The Principal,
M. H. Shinde College,
Tisangi, Tal.-Gaganbavada,
District-Kolhapur.

2. The President,
Dnyansadhana Shikshan
Prasarak Mablal, Niwade,
Tal.-Gaganbavada, District-Kolhapur.
3. The Director Board of College
& University Development,
Shivaji University, Kolhapur – 416 004.....Respondents

Ms. Shama Mulla, for the Petitioners.

Mr. M. S. Topkar with Ms. Bhargavi Patil & Mr. Neev Patil, for the
Respondent Nos.1 & 2.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATED : 13th JANUARY 2026

PC.:-

1. Both these Petitions are directed against the Judgment and Order dated 6th October 2006 passed by Presiding Officer, University and College Tribunal, Pune/Shivaji University (For short, ‘**Tribunal**’) in Appeal No.48 of 2002(S). Writ Petition No.3715 of 2007 and Writ Petition No.3717 of 2007 are filed by the Petitioners, who are the ‘Lecturers’ in Respondent No.1-College. Since both the Petitions are directed against the same order, they are disposed of by this common judgment.

2. Both the Petitioners are husband and wife. They were appointed as Lecturers in Marathi & Hindi subjects respectively on 13th January 1997 on a temporary basis for a period of two years till 31st October 1999 at Respondent No.1-M. H. Shinde College, Tisangi,

District Kolhapur, which is managed by Respondent No.2-Dnyansadhana Shikshan Prasarak Mandal following a formal and regular selection process conducted by the University, the Petitioners were initially appointed on an *ad hoc* basis and thereafter from 1st December 1999 placing their employment under the regular oversight of the authorities of Shivaji University.

3. It is the contention of both the Petitioners that at the very inception of their regularized services from 1st December 1999, the Petitioners were subjected to a common, but illegal practice, where the Management coerced both of them into submitting an undated resignation letters as a pre-condition for joining. Being in dire need of employment and belonging to a backward class, the Petitioners were coerced to this duress. This pattern of exploitation continued throughout their tenure of 3 years and 5 months, during which the Respondents compelled both of them to sign pay-sheets acknowledging receipt of full salary, whereas in reality, they were consistently paid a significantly lesser amount, thereby depriving both of them of their legal financial entitlements.

4. The Petitioners have filed complaints at Gaganbawda Police

Station on 22nd April 2002 and also to University dated 23rd April 2002 detailing instances of physical beating and harassment. In direct relation to these complaints, the Respondents maliciously misused the undated resignations letters previously taken under force, by inserting backdated entry and issued termination (acceptance letter of resignation) dated 18th May 2002 claiming that both of them have resigned which resulted in removal of both of them from service effective from 31st May 2002. University Enquiry Committee report is not considered by the Respondents, which hold Respondent No.1 as guilty of misconduct and recommending the Petitioners' reinstatement.

5. It is the contention of Petitioners that undated resignation letters were not submitted voluntarily, rather those were extracted by the Respondents under duress at the time of incident involving physical harassment.

6. It is argued by the Respondents that the Petitioners' period of probation had not yet commenced, asserting that their engagement was limited to a temporary tenure and approvals were granted strictly on an *ad hoc* basis.

7. It is the contention of the counsel for Respondents that a resignation letter submitted on 15th April 2002 and the second resignation letter dated 17th April 2002, both resignation letters are undisputed and have formed a part of record. The submission of two consecutive resignation letters clearly indicates a conscious and deliberate decision on the part of Petitioners. The said resignation was thereafter accepted by Competent Authority in May 2002, which resulted in a lawful cessation of employer-employee relationship. No contemporaneous challenge, protest or retraction of the resignation was raised by the Petitioners at or around the time of acceptance.

8. After a considerable lapse of time, the Petitioners raised a dispute before the Tribunal contending that the resignations were not voluntary. The Tribunal upon examination of the pleadings and documents placed before it rejected the claim as recorded in the impugned Judgment and Order. The Tribunal found that the Petitioners had failed to substantiate the allegations that the resignations were obtained by coercion or under compelling circumstances. The Tribunal thereafter, concluded that the resignations having been accepted could not be reopened on the basis of bald assertion.

9. The Petitioners have challenged the Tribunal's decision by relying upon the Judgment of Bombay High Court, Nagpur Bench, ***Shri Brijlal Biyani Vidya Niketan and Anr. vs. Bharti w/o Khanderao Dabhade and Ors.***¹ particularly paragraph No.8, wherein it was the case of Petitioner that the resignation was involuntary. It is submitted on behalf of the Petitioners that the Tribunal failed to frame a specific issue regarding the voluntariness of resignation and that such omission has vitiated the adjudication. The Petitioners contend that proper framing of issue was necessary in order to enable adjudication of the core controversy. The Tribunal ought to have permitted the parties to lead evidence. According to the Petitioners, rejection of the claim without recording evidence amounts to denial of reasonable opportunity and violates the principles of natural justice.

10. It has been held in abovesaid Judgment that when the voluntariness of resignation is disputed, the adjudicating authority must permit evidence to be led and cannot summarily dismiss the claim. No such issue is framed by the Respondents. Therefore, the Petitioners had no opportunity to lead evidence.

1 Writ Petition No.32 of 2015.

11. The Respondents, however, submit that the resignation letters dated 15th April 2002 and 17th April 2002 are admitted and unequivocal. The acceptance of resignations in May 2002 has not been disputed. It is well settled that once resignation is admitted, the burden squarely lies on the employee to establish that the same was obtained by coercion, fraud or undue influence. In the present case, the Petitioners have failed to discharge their burden. No documentary material, contemporaneous correspondence, or independent evidence have been produced to support the allegation of involuntariness.

12. The Respondents further submit that paragraph No.9 of the Judgment of Bombay High Court, Nagpur Bench, Nagpur in *Shri Brijlal Biyani Vidya Niketan and Anr. (supra)*, does not advance the Petitioners' case. The said paragraph merely records that the Tribunal was empowered to permit parties to lead evidence or call upon them to submit declarations. The Tribunal did not prevent the Petitioners from producing material. Despite having such liberty, the Petitioners did not submit any declaration, affidavit, or evidence in support of their plea of coercion. Having failed to avail the opportunity, the

Petitioners cannot now contend that the Tribunal denied an opportunity or acted in violation of natural justice.

13. It is further submitted that mere non-framing of a formal issue does not vitiate the proceedings, particularly when the parties were fully aware of the controversy involved. The Petitioners neither sought framing of an issue nor raised any objection before the Tribunal at the relevant stage. In the absence of demonstrated prejudice, procedural irregularities, if any, cannot be a ground to set aside the Tribunal's decision.

14. With respect to reliance on the judgment in ***Ashok Balaji Biradar (supra)***, the Respondents submit that the said decision is clearly distinguishable on facts. In that case, there exists *prima facie* material indicating that the resignation was not voluntary, thereby necessitating a full-fledged inquiry. In the present case, there is a complete absence of such material, and the challenge rests solely on unsubstantiated allegations raised after the resignation had already been accepted and acted upon. Hence, prayed to dismiss the Petitions.

15. Heard learned counsel appearing for respective parties.

16. In this petition, the Petitioners are challenging the acceptance of resignation, which is termed as 'Otherwise Termination'. As per Section 59 of the Maharashtra Universities Act, 1954, notwithstanding anything contained in any law or contract for the time being in force any employee (whether a teacher or other employee) in any university, college or recognized institution (other than that managed and maintained by the State Government, Central Government or a local authority), who is dismissed or removed or whose services are otherwise terminated or who is reduced in rank by the university or the management and who is aggrieved, shall have a right of appeal against any such order to the Tribunal. For the purpose of adjudication, hearing and disposal of appeals, the Tribunal shall have the same powers as are vested in an Appellate Court under the Code of Civil Procedure, 1908. It also states that the Tribunal shall have the power to stay the operation of any order against which an appeal is made, on such terms and conditions, as the Tribunal may think fit.

17. Section 61 of the Maharashtra Universities Act confers power on the Tribunal, after giving reasonable opportunity of being heard, to decide and set aside the order of the University or the

management, partially or wholly, and direct reinstatement of the employee to the same post or to a lower post or to restore the employee to the rank which he held before reduction or to grant any other relief.

18. The Petitioners, who are husband and wife are appointed by the Respondents earlier on an *ad hoc* basis and thereafter, by regular selection. It is alleged that at that time only the resignations were obtained by Respondent Nos.1 and 2 and those were misused. It appears that the Petitioners are not denying the handwriting or signatures on resignation letters. However, it is the case of the Petitioners that it is obtained by force and coercion. If it is the case of forced resignation, then the burden is on the Petitioners to prove said coercion, to plead about the coercion and the incident which compelled them to give such resignations. The Petitioners have not adduced any evidence before the Tribunal about the misrepresentation and coercion. There are no pleadings. It is well settled that a person who is pleading misrepresentation or coercion in obtaining resignation letter, it is required to plead the case and thereafter prove the same in evidence.

19. The counsel for the Petitioners has placed reliance on the

judgment of this Court in case of *Shri Brijlal Biyani Vidya Niketan and Anr. (supra)*, particularly paragraph No.8, which reads as under:

“8. It would, however, be the discretion of the School Tribunal whether the parties are to be permitted to lead oral evidence in the interest of justice, keeping in view the facts and circumstances of each case. While doing this, the School Tribunal may have regard to the nature of factual dispute, the burden of proof, the presumptions in law, the choice of the party to discharge such burden or rebut presumptions in law by leading oral evidence. In order to cut short the controversy and concentrate upon the material controversy, it shall always be desirable for the School Tribunal to frame an appropriate issue or the issues of facts so that the party desiring to discharge the burden or rebut the presumptions in law, is not deprived of such opportunity to lead evidence to prove facts in support of its stand. It will not be a hard and fast rule to permit the parties in each case to lead oral evidence. The School Tribunal may decide cases on the basis of pleadings and the documents on record and/or on the basis of affidavits if it is possible, depending upon the facts and circumstances of such cases.”

20. The Tribunal has not framed such issue and therefore the Petitioners who were not represented through lawyer have not got opportunity to lead any evidence.

21. The Counsel for Respondents has relied on judgment of Hon'ble Bombay High Court in the case of *Prahladrai Dalmia Lions College of Commerce and Economics, Bombay & Ors. v. A. M. Rangaparaia & Ors.*² in support of his arguments that the Tribunal is empowered to record the evidence.

22. It is also observed by this Court in Case of *Anant Bhagwan Kamble vs. The Principal, M. L. Dahanukar College of Commerce & Ors.*³ that Section 60 of the Maharashtra Universities Act provides that the Tribunal shall have the same powers as are vested in an Appellate Court under the Civil Procedure Code. The Tribunal is entitled to re-appreciate the evidence. Therefore, the Petitioners have to adduce evidence to prove the allegations about obtaining the resignations by coercion. In absence of evidence, the Tribunal has rightly observed that the contention of the Petitioners is not proved.

23. A careful perusal of prayers in appeals would reveal that there is no prayer to the effect that the resignations tendered by the Petitioners should be declared as null and void. In absence of any prayer to that effect before the Tribunal, it is not open for the

² 1988 Mh.L.J. 530.

³ 2007(1) ALL MR 338

Petitioners to contend that the resignations were forceful or under the pressure of Respondents. Even if it is taken as it, that the resignation was forceful or under pressure, the Petitioners did not adduce any evidence to that effect before the Tribunal.

24. On perusal of pleadings, the contention of Petitioners is that it was obtained at the time of their regular appointment and was misused. Petitioners have not pleaded any particulars about the place, where the Respondents have obtained forceful resignation and at what time. The serious allegations are made against Respondent Nos.1 and 2 and crime is registered against both the Respondents for said offenses. The Respondents are acquitted and said judgments are not challenged before the Appellate Court. On the basis of serious allegations, the crime was registered and it was the only reason that the Petitioners have mentioned about forceful resignation, which is not proved. The ground that they were not represented through Advocate is now not available to the Petitioners, because it was their choice.

25. As serious allegations are made and crime registered against Respondent Nos.1 and 2, I have gone through the Judgment passed

in said trial. On perusal of said judgment, it appears that the conduct of Petitioners during trial and denial for cross examination in trial which resulted in acquittal of Respondent Nos.1 and 2 proves that the statements made by Petitioners are not reliable.

26. Considering above said aspects, on careful perusal of findings of the Tribunal, it clearly emerges that the Tribunal has taken a plausible view on the basis of material on record. There is no perversity in findings recorded by the Tribunal in impugned Judgment and Order.

27. No interference is called for. The Writ petitions are dismissed.

(MRS. VRUSHALI V. JOSHI, J.)

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signed by
RAJU
DATTATRAYA
GAIKWAD
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