

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 3319 OF 1994

Rajendra Hari Patil,  
Age-29 years, Occu-Nil,  
R/o Wade, Tq.Bhadgaon,  
Dist.Jalgaon

PETITIONER

VERSUS

1. The Secretary,  
Nutan Mahila Sarvodaya,  
Bal Vikas Sanstha,  
Pachora, Dist. Jalgaon,
2. The Head Master,  
Dalit Mitra Sow.Nirmalabai  
Dattatraya Kawre Kanya Vidyalaya,  
Pachora, Dist. Jalgaon,
3. The Education Officer (Secondary),  
Zilla Parishad, Jalgaon,
4. The Presiding Officer,  
School Tribunal,  
Nasik Region, Nasik

RESPONDENTS

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Advocates appearing for :

Petitioner : Mr.S.R.Barlinge, learned Advocate.  
Respondents : Mr.G.V.Wani, Advocate for respondent Nos. 1 and 2.  
Mr.S.G.Sangle, AGP for respondent No.3.  
Respondent No.4 served.

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CORAM : RAVINDRA V. GHUGE, J.  
RESERVED ON : 01/10/2015  
PRONOUNCED ON : 06/10/2015

JUDGMENT :-

1. This petition was admitted on 19/10/1994. Rule on interim relief was granted. However, no such further order was passed in this matter.
2. A short point is raised for my consideration in the light of admitted facts, which are as under :-
  - a. The petitioner was appointed as an “Assistant Teacher” on 11/06/1992.
  - b. He was forced to resign on 08/01/1993.
  - c. On the same date, he immediately sent a telegram to the Education Officer stating that the Director of the Institution has forced him to resign.
  - d. By letter dated 18/01/1993, the Education Officer directed the Management that if the resignation is accepted without offering an explanation to the Education Officer in the light of the complaint of the petitioner, such acceptance shall not be held valid.
  - e. The petitioner submitted a representation dated 28/01/1993 to the Education Officer setting out in details the circumstances in which he was coerced and forced to resign.
  - f. Another representation dated 05/05/1994 was submitted to the Education Officer.
  - g. Appeal No.8/1993 was lodged by the petitioner before the School Tribunal alleging forceful resignation and illegal termination.
  - h. By judgment dated 26/08/1994, the appeal was partly allowed.
  - i. The School Tribunal granted full salary and allowances by treating the petitioner in service from 08/01/1993 till 30/04/1993 since the appointment of the petitioner was on temporary basis for only one academic year 1992-93.

3. Grievance of the petitioner is that the School Tribunal should have granted reinstatement with continuity of service and full back wages. The impugned judgment to the extent of not granting these reliefs is perverse and erroneous. Reliance is placed upon the judgment delivered by this Court dated 28/08/2014 in Writ Petition No.3101/2001 in the matter of Vijaya d/o Vithalrao Ingle Vs. Shri Chhatrapati Shivaji Shikshan Sanstha, Omerga and others, the judgment in the matter of Sayyed Maksood Ali Sayyed Roshid Ali Vs.Uruj-E-Urdu Education Society, Kalamb, 2011(4) Mh.L.J. 952 and Moti Ram Vs. Param Dev, 1993(2) SCC 725.

4. Mr.Wani, learned Advocate appearing on behalf of respondent Nos. 1 and 2 frankly submits that the Management has not challenged the judgment of the School Tribunal. However, the appointment of the petitioner was only for one year as a “temporary”. There was no permanent vacancy available. The petitioner was not on probation. The School Tribunal could not travel beyond the scope of the appointment order. Hence the petition be dismissed.

5. The learned AGP appearing on behalf of respondent No.3 submits that the Education Officer had rightly prevented the Management from hurriedly accepting the resignation of the petitioner. The School Tribunal had, therefore, considered the stand taken by the Education Officer.

6. Respondent No.4 is a formal party.

7. I have considered the submissions of the learned Advocates.

8. It cannot be overlooked that the Management has not challenged the impugned judgment. In paragraph Nos.4 to 7 of the impugned judgment, the Tribunal has come to a conclusion that the resignation was obtained under coercion and duress. The petitioner has immediately and on the same date lodged a complaint with the Education Officer, which directed the Management not to accept the resignation. Yet, the Management had wrongly accepted the resignation in undue haste. The Tribunal has, therefore, set aside the resignation on these grounds and the said decision has been accepted by the Management.

9. Issue is as to whether the School Tribunal could travel beyond the scope of the appointment order of the petitioner and whether it could have granted reinstatement with continuity and full back wages. The petitioner was appointed specifically for only one academic year. Even if he was to normally continue in employment, his tenure would have come to an end by efflux of time upon completion of the academic year 1992-93. Neither could it be presumed that the petitioner would have continued in the employment of the respondent/Institution, nor can it be speculated that he would have been regularized in employment.

10. The School Tribunal, having concluded that the resignation which was obtained by force, would therefore amount to an illegal termination at the

hands of the Management, has rightly granted wages for the residual period of service. Had the appeal been decided during the tenure of one year for which the petitioner was appointed, an order of reinstatement could have been passed. Nevertheless, the Tribunal could not have reinstated the petitioner beyond the scope of his appointment order. The impugned order is, therefore, neither perverse nor erroneous.

11. The reliance placed upon the judgments, mentioned above, is of no assistance to the petitioner since the facts in the said cases are totally different than those appearing in this case wherein the petitioner had been appointed only for one academic year.

12. In the light of the above, this petition, being devoid of merit, is therefore dismissed.

13. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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