

kps

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.5294 OF 2014

IN

WRIT PETITION NO. 1155 OF 2013

WITH

WP/1155/2013

YESHWANT GUNDERAO TURNER

VERSUS

SHRI. GANESH SHIKSHAN PRASARAK MANDAL, MANDURKI AND ORS

...

Advocate for Applicant/Petitioner : Mr.N.P. Patil Jamalpurkar.

Advocate for Respondents : Mr.Rudrawar S.G.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th August, 2015

Per Court:

(a) Civil Application No.5294/2014:-

1 Shri Patil, learned Advocate appearing on behalf of the Applicant, submits that the original muster roll during the service period of the Applicant indicates his name and signature especially in the muster roll for the year 2006. He submits that the Respondent/ Management has erased his name by applying whitener and the name of Mr.Ravindra Tarde is overwritten on the name of the Applicant. He prays for a direction that the Respondent/ Management should produce the original record for the

perusal of the Court and should supply the copy of the said record to the Applicant.

2 Shri Rudrawar, learned Advocate for the Respondent/ Management, submits that this application is misconceived. The Applicant had made such request before the School Tribunal in Appeal No.31/2011. The record was produced for perusal of the School Tribunal. Hence, the said record need not be once again produced in this Court.

3 I have considered the submissions of the learned Advocates.

4 The School Tribunal has dealt with this issue in paragraph 15 of the impugned judgment dated 27.09.2012. It was observed by the School Tribunal as under:-

“15. On perusal of the muster roll of year 2006, it appears that the correction appears to have been made by whitener at Sr.No.6 where the name of Ravindra Tarde is mentioned. However, the above correction is done to correct the mistake committed in showing Rajkumar Panhale as serving in the Dnyanganga Madhyamik Vidhyalaya, Salna, Tq.Aundha, Dist. Hingoli w.e.f. 23.06.2006 as per the case of respondents. Whatever may be the case, I would like to mention here that the above discrepancies in the muster roll does not goes to prove the appointment of appellant and his continuous services with the respondent management till the date of his otherwise termination. It appears that

appellant is trying to make capital of the above discrepancies occurred to take benefit of the same for his case which is not proper. The appellant has to prove its own case, it can not derive the strength from weakness of his opponent. Consequently, above discrepancies does not proves the case of the appellant.”

5 In the light of the above, I find it proper to direct the Respondent/ Management to produce the said original muster roll for the perusal of this Court while hearing the Writ Petition.

6 For the reasons as recorded above, this application is allowed in terms of prayer clause (B). The Respondent/ Management shall keep the original record ready while hearing the main petition.

(b) Writ Petition No.1155/2013:-

7 By consent of the parties, the Writ Petition shall stand over to 04.09.2015 for further consideration.

(RAVINDRA V. GHUGE, J.)