

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

WRIT PETITION NO.6256 OF 2014

1. John Wilson Education
Society's Dr.Fraser Boys
High School, Through
its Secretary,
Wilson College, Mumbai
 2. John Wilson Education
Society;s Dr. Fraser Boys
High School, Through its
In charge Headmaster,
Near Azad Maidan, Jalna
 3. John Wilson Education
Society's Douglas Girls
High School, Through its
Headmistress, Jalna
- .. Petitioners

Versus

1. Monica d/o Bathuwel Ghule,
(Monica w/o Vishal Kamble),
Age 25 years, Occu. Service,
now terminated,
R/o Christian Co-operative
Housing Society, Behind J.E.S.
College, Jalna
 2. The Deputy Director of Education,
Aurangabad Division, Aurangabad
 3. The Education Officer (Secondary),
Zilla Parishad, Jalna
 4. The Education Officer (Primary),
Zilla Parishad, Jalna
 5. Shruti d/o Virendra Gaikwad,
Age 31 years, Occu. Shikshan
Sevak, R/o Agarsen Nagar,
Jalna
- ..Respondents

Mr Ashvin V.Sakolkar, Advocate h/f Mr V.G. Sakolkar, Advocate for
petitioners

Mr M.M. Kamble, Advocate for respondent No.1

Mr D.R. Korde, A.G.P. for respondents 2 and 3

Mr G.C. Nawandar, Advocate for respondent No.5

CORAM : N.W. SAMBRE, J.

DATE : 8th April 2015

PER COURT

1. The petitioner-Management has questioned the order dated 4th July 2014 passed by the Presiding Officer, School Tribunal, below Exh.13 in Appeal No.17/2013, which was preferred by the respondent No.1, directing the petitioner-management to supply the documents demanded in an application dated 13th November 2013.

2. While questioning the legality and validity of the order impugned, Mr Sakolkar, learned Counsel for the petitioner-management, in the background of provisions of Order XXVII, Rule 12 of the Code of Civil Procedure read with Section 10 of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act (hereinafter referred to as the "M.E.P.S. Act" for the sake of brevity) would urge that the order impugned is not sustainable, as the Tribunal has not applied its mind while issuing the directions to the petitioner-management to supply the documents as to how those documents are relevant for the purpose of determination of the cause which was brought in action before it. In addition to above, he would further urge that the order lacks reasons as to why the documents are necessary for the purpose of adjudication of the issue.

3. Learned Counsel for the respondent No.1 while opposing the petition has strongly urged that in the background of the requirement of Sections 9, 10 and 11 of the M.E.P.S. Act, the least that was

expected of the petitioner-management was to supply the documents which were sought by the employee which were necessary for deciding the issue that was brought in action before the Tribunal. He would submit that withholding of the documents by the petitioner-management in spite of order of the tribunal will amount to playing fraud and supports in proposition from the various judgments. In addition to above, he would urge that the denial of such opportunity will result in denial of hearing and as such, prayed for dismissal of the petition.

4. Upon perusal of the contents of application Exh.13 filed by the respondent No.1-employee before the Tribunal in an appeal preferred under Section 9 of the M.E.P.S. Act, it is noticed that the respondent No.1-employee has given list of the documents which are required by her and the only cause cited is that the documents are required for the purpose of effective hearing. In absence of the connecting reasons for not providing all those documents which were sought before the Tribunal, particularly in the background of process applicable to the provisions of Section 11 of the M.E.P.S. Act, in my opinion, was lost sight of by the Tribunal. The Tribunal has not at all discussed in its order as to how the documents are required or to be connected with the cause that is sought to be looked into.

5. In that view of the matter, the order dated 4th July 2014 passed by the Tribunal below Exh.13 in Appeal No.17/2013 is not sustainable. As such, the said order dated 4th July 2014 is hereby quashed and set aside.

6. However, this Court cannot loose sight of the fact that the documents if required for the purpose of adjudication of the issue which is raised before the Tribunal, the petitioner-management should be given an opportunity to object the application before the Tribunal. While deciding such claim, if so moved by the present respondent No.1-employee, by way of additional application or an additional affidavit, be decided by the Tribunal on its own merits after giving opportunity of hearing to the petitioner-management.

7. Writ Petition stands allowed and disposed of in above terms.

(N.W. SAMBRE, J.)

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