

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7287 OF 2015

1. The President,
Pradnya Surya Education Society,
Nanded, Tq. and Dist. Nanded.

2. The Secretary,
Pradnya Surya Education Society,
Nanded, Tq. and Dist. Nanded.

3. The Headmistress,
Matasaheb Primary School,
CIDCO, Nanded
Ishrat Fatema Ansari,
Age 51 years, Occ. Service
R/o C/o Matasaheb Primary School,
CIDCO, Nanded.

..Petitioners

Versus

1. Subhash Gangadhar Gadhe,
Age 32 years, Occ. Nil
R/o Shirla, Post Purjal,
Tq. Aundha (N), Dist. Jalgaon.

2. The Education Officer (P),
Zilla Parishad, Nanded.

3. The Dy. Director of Education,
Latur Division, Latur.

4. Shriniwas Ramrao More,
Age 26 years, Occ. Service
R/o C/o Matasaheb Primary School,
CIDCO, Nanded,
Sonpeth, Tq. and Dist. Nanded.

..Respondents

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Advocate for Petitioners : Shri Jadhavar Santosh S.
AGP for Respondent 3 : Smt. Shelke S.D.
Advocate for Respondent 1 : Shri Kulkarni G.N.(Mardikar)

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 13, 2015

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ORAL JUDGMENT :-

1. Heard.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. The petitioners are the original opponents in Appeal No.51 of 2013, preferred by the respondent No.1 herein, vide which he has challenged his oral termination dated 3.12.2013, under Section 9 of the the Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977 ("the MEPS Act" for short). Certain documents were produced by him before the School Tribunal. The said documents are in Photostat copies. The petitioners have taken a stand that none of these documents are truthful. They were never issued by the petitioner management and hence there is no question of the original copies being in existence.
5. It is undisputed that the documents at issue are the appointment order, joining report and a resolution.
6. The petitioners moved an application Exhibit 46 before the School Tribunal praying for referring the documents to a handwriting expert so as to identify the handwriting and the signature of the original respondent Nos.2 and 3. It was also prayed that the sample signature and handwriting

of the said respondent Nos.2 and 3 (petitioners herein) be taken by the Tribunal for the purposes of referring the same to the handwriting expert.

7. The respondent No.1/appellant opposed the said application on the ground that the originals are with the petitioners and the same could be produced by the management. Photostat copies can never be referred to the handwriting expert for its opinion.

8. By the impugned order dated 10.4.2015, the School Tribunal rejected application Exhibit 46, filed by the petitioner management on the ground that the litigating sides can produce evidence before the School Tribunal at the time of the final adjudication of the appeal. Photostat copies cannot be referred to the handwriting experts. The original proceeding book, bearing Resolution dated 10.1.2010 at Sr. No.8 could also be produced. Through the resolution book, the Tribunal can assess whether such a resolution was passed or not.

9. The petitioner management has strenuously submitted that the Photostat copies could be referred to the handwriting expert in the peculiar facts of this case, wherein, the originals are not at all in existence. It is further submitted that no loss or harm would be caused to the first respondent appellant since, if the handwriting of the petitioner officers and their signatures match with the handwriting and signatures appearing in the documents, the appellant would benefit from such opinion. Per contra, if the handwriting and signature is disproved, it would indicate that the

appellant has produced forged documents.

10. The main Appeal No.51 of 2013 is pending before the School Tribunal.

11. I do not intend to consider this controversy at this stage, primarily for the reason that the Photostat copies cannot be referred to a handwriting expert for verification. The petitioner has not been able to cite any judicial pronouncement permitting sending of Photostat copies to handwriting expert. Secondly, both the litigating sides can endeavour to bring in secondary evidence or establish such attending circumstances which would assist the School Tribunal to analyse the probative value of these three documents.

12. In the light of the above, this petition is disposed off without causing any interference in the impugned order, but by granting liberty to both the sides to produce evidence before the School Tribunal to decide the controversy. Similarly, the petitioner management, in the event it suffers an adverse judgment of the School Tribunal, may take out a comprehensive challenge while assailing the said judgment.

13. Rule is, therefore, discharged.

(RAVINDRA V. GHUGE, J.)

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