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

WRIT PETITION NO. 8368 OF 2015

THE PRINCIPAL, ST.JOSEPH'S CONVENT SENIOR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners : Shri Deshmukh N. E.

AGP for Respondent No.1 : Shri U.H.Bhogle.

Advocate for Respondent No.2 : Shri Naseem R. Shaikh.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th October, 2015

Per Court:

1 While issuing notice to the Respondents, this Court had noted the submissions of the Petitioner in its order dated 12.08.2015 as follows:-

- “1. The petitioners are aggrieved by the order dated 01/08/2015 passed by the School Tribunal, Nasik on the application dated 21/02/2015 Exh.23 filed by the petitioner seeking disposal of Appeal No.56/2014.
2. The petitioners submit that the original appellant / respondent No.2 herein had assaulted a girl student in the school. She suffered head injuries. Considering the pressure from the Society and the close relatives of the injured girl, the appellant/Assistant Teacher, who is a permanent employee, is terminated vide order dated 11/10/2014.

3. *He preferred Appeal No.56/2014 before the School Tribunal, Nasik. The petitioner/ Management contended that the impugned termination is set aside and the appellant was reinstated in employment by reserving a right to conduct a departmental/ disciplinary proceeding against the appellant. Application Exh.23 has been rejected by the School Tribunal vide impugned order dated 01/08/2015 on the ground that neither the petitioners nor their Advocates remained present and the said application was not canvassed by the petitioners.*
4. *Mr.Deshmukh, learned Advocate for the petitioners submits on instructions that an incorrect observation has been made by the School Tribunal in the impugned order. The learned Advocate of the petitioners was personally present before the Court when the application Exh.23 was argued and yet he is shown to be absent as having not addressed the Tribunal. He submits that the concerned Advocate before the School Tribunal is willing to file an affidavit.*
5. *He further prays for ad-interim stay to the appeal since the Tribunal is proceeding with the appeal expeditiously despite there being no cause of action to be considered.*
6. *Issue notice to the respondents, returnable on 4/9/2015. Learned AGP waives service for respondent No.1.*
7. *Till the next date of hearing in this matter; the School Tribunal shall not proceed with Appeal No.56/2014 on the condition that the petitioners deposit Rs.15,000/- (Rs.Fifteen thousand only) in this Court on or before 28/08/2015. Needless to state, if the said amount is not deposited, the ad-interim protection granted shall stand vacated without reference to the Court.*
8. *Since, a serious statement is made by the learned Advocate, as recorded in paragraph No.4 above, the learned Advocate of the petitioners before the School Tribunal shall file his affidavit regarding the said statement till the next date.*
9. *Parties to note that this matter is likely to be decided*

finally at admission stage.”

2 An affidavit has been filed by the Advocate Shri Vinod Sudhakar Shelar, setting forth the circumstances which, according to him, have occurred before the School Tribunal which was dealing with Appeal No.56/2014.

3 The learned Advocate for Respondent No.2/ Employee has contradicted some of the statements made in the affidavit.

4 Be that as it may, the Petitioner/ Management specifically submits that the termination of Respondent No.2/ Employee dated 11.10.2014 has been withdrawn and he shall stand reinstated with continuity of services and full back-wages subject to the right of the Petitioner/ Management to resort to appropriate disciplinary proceedings in accordance with law.

5 The learned Advocate for Respondent No.2/ Employee submits, in the light of the resolution dated 09.01.2015, which is placed on record and a categorical statement made by the Petitioner, which is recorded, that this petition as well as Appeal No.56/2014 could be disposed of. He, however, is apprehensive about the reinstatement of

Respondent No.2/ Employee and prays that this Court may give appropriate directions about the period within which Respondent No.2/ Employee would be reinstated.

6 The learned Advocate for the Petitioner, on instructions, submits that Respondent No.2 can report for duties on 19.10.2015 and submit a joining report. He shall stand reinstated with continuity of service and full back-wages. The Petitioner/ Management shall follow the due procedure laid down in law in initiating the disciplinary action against Respondent No.2/ Employee.

7 In the light of the above, this Writ Petition is disposed of with the following directions:-

- (a) The Petitioner/ Management shall allow Respondent No.2/ Employee to report for duties on 19.10.2015 as per the school timings.
- (b) The Petitioner/ Management shall ensure that the back-wages from the date of termination till the date of reinstatement shall be paid to Respondent No.2/ Employee within EIGHT WEEKS from today.
- (c) In the event, the Petitioner/ Management desires to initiate the disciplinary proceedings in accordance with

law, they are at liberty to do so within the framework and time limit as is prescribed by the MEPS Act, 1977.

- (d) Consequentially, Appeal No.56/2014 pending before the School Tribunal shall stand disposed of.
- (e) The amount of Rs.15,000/- deposited by the Management in this Court shall be withdrawn by Respondent No.2/ Employee with accrued interest and the said amount shall be adjusted in the back-wages which are to be paid to Respondent No.2.

(RAVINDRA V. GHUGE, J.)