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

WRIT PETITION NO. 9181 OF 2012

Sudhakar Ieraba Sonkamble,
Age : 43 years, Occupation : Service,
R/o Mogha, Taluka Udgir,
District Latur.

...PETITIONER

-VERSUS-

1 Secretary,
Jaikisan Shikshan Prasarak Mandal,
Captain Krishnakant Kulkarni Colony,
Bidar Gate, Udgir, Taluka Udgir,
District Latur.
Through it's Secretary.

2 The Headmaster,
Tukaram Naik Primary School,
Pimpri Road, Udgir,
Taluka Udgir,
District Latur.

3 The Education Officer (Primary),
Zilla Parishad, Latur,
District Latur.

...RESPONDENTS

...
Advocate for Petitioner : Shri Sakolkar Vijay G.

Advocate for Respondent Nos.1 and 2 : Shri S.R.Kolhare.

Advocate for Respondent No.3 : Shri U.B.Bondar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th October, 2015

Oral Judgment:

1 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The Petitioner is aggrieved by the impugned judgment of the School Tribunal dated 07.07.2012 delivered in Appeal No.44/2011.

3 The Petitioner strenuously contends that he has been working with the Respondent/ Management from 23.06.1999 on the post of Assistant Primary Teacher. He belongs to Scheduled Caste category. By a proper appointment order issued for the first time on 24.06.2002, he was engaged for one academic year. Similar orders were issued on 22.06.2003, 26.06.2004 and 21.06.2005. As such, he was continued from 23.06.1999 till the end of academic year 2005-2006. Even thereafter, he continued to work till 2008 and was orally removed.

4 The Petitioner submits that the Headmaster (Respondent No.2 herein) had issued a certificate dated 18.08.2008 to indicate that the work of the Petitioner is satisfactory. It is also stated that he has been working from 02.08.2002 till the date of the certificate as an Assistant Teacher.

5 The Petitioner moved an application on 18.09.2008 praying for confirmation in employment and hence, the Respondent/ Management became antipathetic towards the Petitioner and orally removed him from service. The complaint was lodged by the Petitioner on 06.10.2008 to the Education Officer highlighting illegal conduct of the Respondent/ Management. Similar representation was submitted to the Chief Executive Officer, Zilla Parishad, Latur. Since no response was received on his complaints, he preferred the appeal before the School Tribunal and challenged the oral termination.

6 Shri Sakolkar submits that the Tribunal has illegally dismissed the appeal without considering the fact that the Petitioner was working continuously. The genuineness of the documents produced by the Petitioner were unnecessarily questioned despite they being valuable documents for the Petitioner. He, therefore, prays that the impugned judgment be set aside and this petition be allowed directing reinstatement of the Petitioner.

7 Shri Kolhare, learned Advocate for the Respondent/ Management, submits that all the documents produced by the Petitioner were in xerox form. Four appointment orders referred to herein above, are xerox copies and forged documents. Original copies of these documents

do not exist since these documents were never issued by the Management or Secretary.

8 He further submits that the Petitioner was never appointed by the Management. He has never worked even for a single day. He was never paid any salary obviously because he has not worked. He, therefore, prays that this petition be dismissed.

9 Shri Bondar, learned Advocate for the Respondent/ Zilla Parishad, submits that it does not have any record of the engagement of the Petitioner by the Respondent/ Management.

10 I have considered the submissions of the learned Advocates as have been recorded herein above.

11 The Petitioner was directed by the School Tribunal to produce the original appointment orders. Despite the direction, the Petitioner did not produce the same. Xerox copies are said to be on record and the Petitioner insisted that xerox copies have been prepared from the originals.

12 In the light of the above, the School Tribunal did not have

original appointment orders before it while deciding the appeal of the Petitioner. The Education Department has no record about the engagement of the Petitioner since they were never intimated of his so called engagement inasmuch as the Respondent/ Management did not move the Education Department for seeking approval. As the original papers were not before the School Tribunal, the appeal has been dismissed.

13 I find from the record as is available that there is no original document indicating the employment of the Petitioner. There is no evidence to indicate that the salary was paid to him. A copy of muster roll is produced on record. The same is also denied by the Management inasmuch as the Management submits that no such original record exists which would indicate the presence of the Petitioner.

14 Notwithstanding the above, even if it is presumed that four appointment orders placed on record are genuine and the Petitioner was engaged by the Respondent/ Management, it appears from clause (3) that he was engaged on account of a regular employee being on leave. The appointment order does not indicate for what period the Petitioner was engaged. It only states that he was engaged in place of the temporary vacancy which has been created on account of leave/ deputation of a

permanent employee.

15 As such, the engagement of the Petitioner is not proved before the Tribunal. Neither the original appointment order is on record, nor does the Education Department have any record about such engagement. I have gone through the record and proceedings placed before me and I do not find any document from the record and proceedings which could in any way render any authenticity to the appointment of the Petitioner.

16 In the light of the above, I am unable to brand the impugned judgment of the School Tribunal as being perverse or erroneous.

17 This petition being devoid of merit is, therefore, dismissed. Rule is discharged.

18 The record and proceedings be returned to the School Tribunal, Latur.

(RAVINDRA V. GHUGE, J.)