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

WRIT PETITION NO. 9769/2014

Nandlal Sitaram Pawar & othersPetitioners.
-VERSUS-
Chetan Vilas Pawar & others. ...Respondents.

WITH

WRIT PETITION NO. 9720/2014

Nandlal Sitaram Pawar & others. ...Petitioners.
-VERSUS-
Pankaj Dashrath Dhangar and others. ...Respondents.

WITH

WRIT PETITION NO. 9770/2014

Nandlal Sitaram Pawar & others. ...Petitioners.
-VERSUS-
Sunanda Naval Pardhi and Others. ...Respondents

WITH

WRIT PETITION NO. 9774/2014

Nandlal Sitaram Pawar & others. ...Petitioners.
-VERSUS-
Amit Anil Pawar and others. ...Respondents.

WITH

WRIT PETITION NO. 9515/2014

Nandlal Sitaram Pawar & others. ...Petitioners.
-VERSUS-
Bhushan Iswar Birari and others. ...Respondents.

WITH

WRIT PETITION NO. 9517/2014

Nandlal Sitaram Pawar & others. ...Petitioners.
-VERSUS-
Lalit Ashok Pawar and others. ...Respondents.

WITH

WRIT PETITION NO. 9514/2014

Nandlal Sitaram Pawar & others. ...Petitioners.

-VERSUS-

Ranjan Gajanan Patil and others.

...Respondents.

....

Mr. K.C. Sant, Advocate for Petitioners.

Ms. S.P. Mahajan, for Respondent No.1.

Mrs.Y.M. Kshirsagar, AGP for Respondent No. 5.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 15th July, 2015

Per Court:

1 The Petitioners in all these petition have assailed identical orders dated 01.08.2014 delivered by the School Tribunal, Nashik in an application below Exhibit 17 filed in Appeal No. 13/2014 and similar applications filed in all connected Appeal Nos.8/2014 (in Writ Petition No. 9720/2014), 10/2014 (in Writ Petition No. 9770/2014), 7/2014 (in Writ Petition No. 9774/2014), 11/2014(in Writ Petition No. 9515/2014), 9/2014 (in Writ Petition No. 9517/2014) and 12/2014 (in Writ Petition No.9514/2014), whereby the intervention applications of the Petitioners have been rejected.

2 Since a common issue emerges from these petitions and the Petitioners claim to be the Trustees of Shri Shivaji Shikshan Mandal, Patonda, Taluka Amalner, District Jalgaon, I have heard all these petitions today by the consent of the parties.

3 The Petitioners claim to be the Trustees of the Shri Shivaji Shikshan Mandal. Respondent No. 1 in all these petitions are the original Appellants, who have questioned their termination from services by filing their respective Appeals under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (herein after referred to as the MEPS Act) and the Rules framed thereunder. It is not in dispute that the said appeals are pending before the School Tribunal at Nashik. By an interim order passed by the School Tribunal the said termination of the first Respondents has been stayed.

4 Despite a host of factors having been canvassed by the Learned Advocates for the respective sides, I am not adverting to all of those for the reason that the appeals preferred by the first Respondents are pending adjudication before the competent Tribunal. Suffice it to say that I am required to consider the issue raised by the Petitioners in connection with their claim that because they are Trustees of the said Trust/ Institution and the interest of the said Trust is not being properly canvassed before the School Tribunal thereby, warranting the Petitioners to prefer applications for interventions, they should be allowed to contest the pending appeals before the School Tribunal.

5 In the above backdrop, the Petitioners had preferred their applications seeking intervention on the ground that they desire to assist the School Tribunal in the proper adjudication of the appeals preferred by the first Respondents. The gravamen of the contentions of the Petitioners is that because the cause of action pertaining to the termination of the first Respondents is not ably canvassed before the School Tribunal, there is a possibility that the material aspects pertaining to the alleged illegal appointments of the first Respondents would be suppressed and held back from the School Tribunal which is, in turn likely to result in allowing of the appeals under fortuitous circumstances.

6 Mr.Sant has strenuously canvassed that the principle of *dominus litis* may not be applicable in this case, in the light of the peculiar facts set out in the applications filed by the Petitioners. The Trust should not suffer on account of an improper presentation of the interest of the Trust before the School Tribunal. The original Appellants should not succeed in their appeals under fortuitous circumstances.

7 It is in these peculiar facts that the School Tribunal should have allowed the intervention applications for the proper adjudication of the appeals. By the impugned orders dated 01.08.2014, the assistance which the Petitioners were to afford before the School Tribunal has been

lost and there is a possibility that the present Respondents in the appeals may act in collusion with the Appellants. He, therefore, prays that the impugned orders be set aside and by allowing these petitions, the applications for intervention be allowed.

8 Ms.Mahajan, learned Advocate appearing on behalf of the first Respondents in all these matters, has vehemently opposed the submissions of Shri Sant. She contends that the Petitioners are already subject to certain proceedings pending before the Assistant Charity Commissioner under the Maharashtra Public Trusts Act. The Applications preferred under Section 41-E of the Maharashtra Public Trusts Act are still pending. The Petitioners at best can be termed as former Trustees. Unless and until they assume the charge as trustees of the said Trust, they have no say.

9 Ms.Mahajan further submits that even if it is presumed for the sake of presumption that the Petitioners presently are the trustees of the said Trust, yet they have no right of hearing in the matter since the cause of action put forth by the first Respondents pertains to their termination. The decision making authority, which acts through a representative, is the answering and necessary Respondent in the appeals. The interest of the Trust is espoused by the said representative. The principle of "*the more*

the merrier” may not apply in this case.

10 She further adds that the Written Statements have been filed by the concerned representatives of the Trust who are arrayed as Respondents in the appeals. Similarly, the Education Officer has also filed the written statement. The appeals would be decided by the School Tribunal on their own merits by considering the contentions and averments of the parties. She, therefore, prays for the dismissal of these petitions and for imposition of costs for making the first Respondents suffer the rigours of litigation.

11 Learned AGP appearing on behalf of Respondent No.5 assures the Court that pursuant to the written statement filed by the Education Officer, he shall properly assist the School Tribunal and as and when directed, he would keep the necessary record available for the perusal of the School Tribunal. She submits that there shall be no negligence on the part of the fifth Respondent.

12 Having considered the submissions of the litigating sides, the issue pertains to the scope and ambit of Section 9 of the MEPS Act and the Rules framed thereunder. The termination from service is a personal cause of action. The terminated employee has to prefer an appeal under Section

9 of the MEPS Act. Needless to state, the Tribunal is under an obligation to consider the contentions and averments set out by all the litigating sides while arriving at proper conclusion.

13 In this backdrop, whether the participation of the trustees is permissible under the MEPS Act in the face of the Trust having been represented by the Chairman and Headmaster, is the issue. The *dominus litis* would, therefore, exist between the Appellants and the Respondents. All the Trustees need not be party to such proceedings since each of them is neither expected nor is warranted to file an individual written statement in the Appeals. The issue of termination is to be supported by the Trust which has terminated the Appellants. The Written Statement by the Chairperson or through Headmaster could infact be sufficient to make out a case in support of the termination. The appearance of the Education Officer will obviously be proper assistance to the School Tribunal since the said authority is the competent office to point out the factum of employment of the first Respondents.

14 The School Tribunal in the impugned order has rightly come to a conclusion that the Applicants/ Petitioners herein are not required to be individually heard. The interest of the Trust is taken care of by the representatives who are arrayed in the appeals as Respondents.

15 I, therefore, do not find that the impugned orders could be termed as being perverse or erroneous. I also do not find that the impugned orders, in the light of the ratio laid down by the Apex Court in the cases of *Syed Yakoob v/s K.S.Radhakrishnan* reported in **AIR 1964 SC 477**, and *Surya Dev Rai v/s Ram Chander Rai* reported in **AIR 2003 SC 3044**, could be termed as being likely to cause grave injustice to the Petitioners.

16 Suffice it to say, the School Tribunal is expected to consider the claims of the litigating sides and draw assistance from the Education Officer for the proper adjudication of the appeals. The School Tribunal shall consider all the contentions and averments of the litigating sides as well as consider the record pertaining to the employment of the first Respondents through the assistance of the Education Officer and decide the Appeals on their own merits.

17 As such, all these petitions are devoid of merits and hence, dismissed.

(RAVINDRA V. GHUGE, J.)