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

WRIT PETITION NO. 11382 OF 2015

- 1 The Secretary,
Smt.Vithabai Shikshan Prasarak Mandal,
Itgyal, Tq.Mukhed, Dist.Nanded.
- 2 The Headmaster,
Anand S/o Dhondiram Shinde,
Age : 48 years, Occ : Service,
R/o C/o Chatrapati Shivaji Secondary
and Higher Secondary School,
Sawarmal, Tq.Mukhed, Dist.Nanded.

...PETITIONERS

-VERSUS-

Shivaji s/o Mohanrao Patil,
Age : 40 years, Occ : Service,
R/o C/o Chatrapati Shivaji Secondary
and Higher Secondary School,
Sawarmal, Tq.Mukhed, Dist.Nanded.

...RESPONDENT

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Advocate for Petitioners : Ms.Mapari Savita G.

Advocate for Respondent : Shri A S Shivpuje.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd December, 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 order dated 16.10.2015 delivered by the School Tribunal below Exhibit-19 in Appeal No.45/2014.

3 The grievance of the Petitioner is that three different causes of action have been sought to be assailed in a common appeal under Section 9 of the MEPS Act, 1977 before the School Tribunal. For each cause of action, the Respondent/ original Appellant should file independent appeals. There is no reason for clubbing three causes of action. As such, a single appeal is rendered untenable in law.

4 Reliance is placed upon Rule 39(2) of the MEPS Rules, 1981 in support of the above contentions. It is, therefore, prayed that the impugned order by which the objection of the Petitioner has been negated, deserves to be quashed and set aside and the application Exhibit-19 deserves to be allowed.

5 Shri Shivpuje, learned Advocate for the sole Respondent/ Caveator, strenuously supports the impugned order. He prays for the dismissal of this petition with costs.

6 I have considered the submissions of the learned Advocates as

have been recorded herein above.

7 The prayers put forth by the Respondent/ Employee in Appeal No.45/2014 read as under:-

- “i) That, the forceful resignation dated 19.06.2013 obtained by the respondent No.1 from the appellant of the post of Head Master may kindly be declared illegal, null and void.*
- ii) That, the proposal dated 21.06.2013 by respondent No.1 to the respondent No.2 for approval it amounts to reduction in rank of the appellant on the post of Head Master, so same may kindly be quashed and set aside.*
- iii) The order of reversion dated 25.09.2013 be quashed and set aside with all consequential benefits and reinstatement to appellant as Head Master along with full back wages and obliged.*
- iv) The respondents may perpetually restrain from disturbing the post of appellant as Head Master.*
- v) Any other suitable and equitable relief may kindly be granted in favour of the appellant.”*

8 Rule 39(2) of the MEPS Rules, 1981 reads as under:-

- “39. Procedure of filing appeal :-*
- (1)*
- (2) Every appellant shall submit his appeal separately and no joint appeal shall be entertained :*
Provided that, the Tribunal may entertain a joint appeal by two or more employees if the appeal arise out of the same inquiry and the grounds raised in the appeal are the same.”

9 I have considered the reasons assigned by the Tribunal while rejecting the application Exhibit-19. The Respondent/ original Appellant

had in fact preferred Appeal No.36/2013. In the said appeal, the purported resignation dated 19.06.2013, the proposal for approval dated 21.06.2013 and the reversion dated 25.09.2013 were not subject matters of challenge. The Tribunal, therefore, disposed of Appeal No.36/2013 and permitted the Respondent to file a fresh appeal with a delay condonation application and raise a challenge to all the causes of action. It is not disputed that the said order of the School Tribunal dated 21.12.2013 in Appeal No.36/2013 has not been set aside by any superior court.

10 Notwithstanding the above, the Respondent/ original Appellant, as an individual, is aggrieved by the three causes of action by which he claims to have suffered a legal injury. It is not an anathema to challenge more than one cause of action by the same employee before the Tribunal in a single appeal.

11 As such, I do not find that the impugned order could be termed as being perverse or erroneous.

12 This petition being devoid of merit is, therefore, dismissed.

13 Rule is discharged.

(RAVINDRA V. GHUGE, J.)