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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

WRIT PETITION NO. 6736 OF 2014

Mr. Ganesh Babasaheb Chandgude. ... Petitioner.

V/s.

President,
Karmala Taluka Education Society, Karmala
Tq. Karmala, Dist. Solapur and Ors. ... Respondents.

Mr. Shrishail Sakhare for the Petitioner.
Mr. Vikram Chavan a/w. Sheetal Thakur for Respondents 1 and 2.

CORAM : N.M. JAMDAR, J.

DATE : 18 DECEMBER, 2015.

P.C. :-

By this Petition the Petitioner challenges the order passed by the Presiding Officer, School Tribunal, Solapur dated 10 September 2013 dismissing his Appeal.

2. The Petitioner was working as a non-teaching staff with the Respondent – Management. He filed Appeal No. 15 of 2013 in the School Tribunal, Solapur contending that his resignation was taken by force on 29 January 2013. According to him the resignation was taken by force from him since he had

participated in election activities against the President of the Institution and therefore, the President had a grudge against him and he was forced to write his resignation. The School Tribunal after hearing the parties and assessing the evidence on record came to the conclusion that the resignation was not obtained by force and accordingly dismissed the Appeal by the impugned order.

3. The learned Counsel for the Petitioner submitted that it was only out of political rivalry that the Petitioner was forced to sign the resignation letter. He submitted that even after taking the resignation letter from him, he was permitted to work and he had made a complaint to the District Education and Training Officer on 11 February 2013. He submitted that there is ample evidence to show that the Petitioner was permitted to work even after tendering the resignation and therefore, there was no reason for the Respondent – management to accept the resignation letter given by him. He also submitted that pay bills of the Petitioner were also signed by the Headmaster of the School. The learned Counsel for the Respondent supported the impugned order.

4. That the Petitioner has tendered a resignation by his hand is not disputed what is contended is that it was under duress. This is essentially a question of fact and it is the Tribunal who is the fact finding authority. Whether it was obtained by coercion or duress will have to be considered in the light of surrounding

circumstances and the conduct of the party. In the resignation letter tendered on 29 January 2013 it is stated that it would be effective from 1 February 2013. The Petitioner, as noted by the School Tribunal, was working for 25 years in the Institution and therefore was aware of the implications of signing a resignation letter. The Petitioner was fully aware that the resignation letter was made effective after period of three days. If there was any duress to be exercised by the Respondent, there would not even given time of three days to the Petitioner to withdraw the said resignation letter. After the expiry of the period specified in the resignation letter itself, it is after 10 days that the Petitioner had made a complaint to the Officer which had no authority or disciplinary control. This conduct of the Petitioner has been noted by the School Tribunal. The learned Counsel for the Respondent pointed out that this promotion was after the Resolution by the Respondent – Management. That the Headmaster permitted the Petitioner to continue, even if it is assumed to be true, will not take away the legal implications of the resignation coming into effect after the date specified in the resignation letter. The Petitioner with full knowledge has not even chosen to withdraw the said letter. Therefore, if these facts are considered by the School Tribunal as sufficient enough to discard the theory of forcible resignation, merely because other view is possible on assessment of evidence, it is not permissible to interfere in writ jurisdiction. Most of the arguments made by the learned Counsel for the Petitioner are as if the Petition is first

appeal from the order of the School Tribunal. No perversity is found in the impugned order and the Tribunal was fully justified in drawing the inference from the facts on record.

5. Writ Petition therefore cannot be entertained and is rejected.

(N.M. JAMDAR, J.)