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

WRIT PETITION NO. 1898 OF 2015

Mr. Muralidhar Sonu Sali.

... Petitioner.

V/s.

The Chief Executive Officer and Ors.

... Respondents.

Mr. S.N. Deshpande a/w. Ms. S.P. Munshi for the Petitioner.

Mr. Arvind Kothari a/w. Ms. Nandini Menon for Respondents 1 & 2.

Mr. Shaikh Nasir Masih for Respondents 4 & 6.

CORAM : N.M. JAMDAR, J.

DATE : 18 DECEMBER, 2015.

P.C. :-

The learned Counsel for the Petitioner states that in paragraph 8 of the Petition inadvertently the Petitioner has given an impression questioning the integrity of the Presiding Officer and he state that the Petitioner will not press on the position asserted therein and delete the said paragraph. This statement is accepted. Amendment to be carried out forthwith.

2. By order dated 23 February 2015, notice was issued to the Respondent indicating that the matter will be disposed of at the stage of admission. The Registry has placed the matter on board for final disposal with a remark that the Respondents have been served. Accordingly, taken up for final disposal.

3. The order impugned in this petition passed by the School Tribunal, Mumbai below Exhibit 38 in Appeal No. 22 of 2012 rejects the Application filed by the Petitioner for amendment of the Appeal Memo. The Petitioner has filed an Appeal challenging the order of his super-session for the post of headmaster with effect from 1 December 2008. The Petitioner took out an application for amendment to giving explanations and asserting certain factual position in respect of documents which were filed by the Petitioner by an application dated 15 January 2014. In the schedule of amendment the Petitioner also questioned the Consent Terms filed in Writ Petition No. 5376 of 2008 relied upon by the Respondent – Management.

4. The learned Counsel for the Petitioner submitted that the amendment was necessary because even though the documents produced on record by the Petitioner by application dated 15 January 2014 were part of the record, an objection was raised by the Respondent that they cannot be looked into for lack of pleadings. He submitted that as far as the Consent Terms are

concerned, a clarification has been given by this Court on 28 January 2011 that the Petitioner will have his independent remedies and the Consent Terms will not come in his way. The learned Counsel for the Respondents supported the impugned order.

5. As regard the amendment alleging that the Consent Terms were obtained by fraud etc., an amendment to that effect is not necessary as by order dated 28 January 2011 this Court has already clarified that it is open to the Petitioner to pursue his remedy independently and the Consent Terms bind only to the parties in these terms.

6. As regard the pleading regarding the documents which are now become part of the record, the grievance made by the Petitioner is justified once the documents have become part of the record, they will have to be looked into by the School Tribunal as per law and both the parties are entitled to put forth their arguments on merits as far as the documents are concerned. In fact it is so clarified by the School Tribunal itself in the impugned order. If a clarification is given to the effect that the Petitioner will not be precluded from putting forth his case on merits as regard these documents are concerned, irrespective of the impugned order, then it is not necessary to pass any further orders in this petition.

7. Accordingly, the Writ Petition is disposed off by keeping all contentions of the parties as regard these documents open and the impugned order will not come in the way of the Petitioner and the Respondents to address their respective case in respect of these documents.

8. Order accordingly.

(N.M. JAMDAR, J.)