

Sequeira

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

**WRIT PETITION NO. 1001 of 2014
WITH
CIVIL APPLICATION NO. 1501 of 2014**

Smt.Pramila Chandrakant Gabhale	.. Applicant
<i>In the matter between</i>	
Shahapur Taluka Education Society and ors.	.. Petitioners
Vs.	
Manisha Maruti Patil & ors.	.. Respondents

None for original Petitioners.

Mr.Mandar Limaye, for Respondent No.1.

Mr.S.D.Rayrikar-Assistant Government Pleader, for Respondent Nos.2 & 3.

Mr.Bhushan Walimbe i/b Ms.Preeti Walimbe, for the Applicant and original Respondent No.4.

**CORAM: N.M.Jamdar, J.
Thursday, 10 December 2015**

P.C. :

In this Civil Application since the original Petitioners had not filed affidavits nor had appeared, it was made clear by order dated 21 November 2015 that the Writ petition itself will be placed for dismissal today. Accordingly the Writ petition is placed on board for dismissal. None appears for the Petitioners. Since none has appeared on behalf of the Petitioners -management in the petition inspite of the matter being listed for dismissal, the petition is dismissed for non-prosecution.

2. The petition challenged the order passed by the School Tribunal dated 9 January 2012 directing reinstatement of the Respondent No.1 in the petition. The petition came up on board on 2 March 2012 and rule was issued. An interim order was passed remanding the matter back to the Tribunal to lead evidence on question of back wages, confirming the order of reinstatement in favour of Respondent No.1. Letters Patent Appeal was filed bearing No.68 of 2013 by the Petitioners challenging the order. On 9 January 2012, the Applicant in Civil application urged that he was terminated by the Petitioner stating that it was consequent upon the reinstatement of Respondent No.1 pursuant to the order of the School Tribunal. In the Letters Patent Appeal the question of termination of the Applicant in the Civil application also came up for consideration. The Division bench set aside the order of the Single Judge and remanded the proceedings also to consider the question as to whether consequent upon the reinstatement of the Respondent, the services of the Applicant are required to be terminated, either in the petition or in any other proceedings as per law.

3. The learned counsel for the Applicant in the Civil application states that in view of the direction of the Division bench the question as to whether termination of the Applicant upon reinstatement of the Respondent No.1 in the petition will still have to be determined and for that purpose Civil Application will have to be heard. It is not possible to accept the submission. Civil

Application is not a substantive proceeding. The Division bench has clarified that the issue can be decided in this petition or any other proceeding as per law.

4. It is the contention of the Applicant that his termination has been needlessly linked with the reinstatement of the Respondent No.1. If that be the contention of the Applicant, it would be a fresh cause of action and the Applicant will have to take out substantive proceedings to challenge his termination. According to the learned counsel for the Applicant linking Applicant's termination to the reinstatement of the Respondent No.1 by specifying so in the termination order is an illegal action on the part of the management. That being the position and that School Tribunal being the original authority under the Act to decide the disputes regarding termination and that the Appeal bench has clarified that this issue can be decided in appropriate proceedings as per law, it will be appropriate to clarify that the dismissal of the Writ petition filed by the management will not preclude the Applicant from agitating his rights by instituting substantive proceedings in the School Tribunal. If the said appeal is filed within period of eight weeks from today the School Tribunal will consider the above mentioned facts and circumstances and consider the issue of delay in filing the appeal favourably.

5. All contentions of the parties as regards the termination of the Applicant are kept open. It is clarified that in case the School Tribunal comes to the conclusion that the termination of the

Applicant is consequent upon the reinstatement of the Respondent No.1, dismissal of the Petition of the Management will not come in his way and he will be entitled to agitate the said issue as per law. The Civil Application accordingly is **disposed of** with liberty as above.

(N.M.Jamdar, J.)