

JPP

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

WRIT PETITION NO. 9310 OF 2014

The Secretary, Shri R.Y. Nalawade,
Shri Chandrasen Shikshan Sanstha and Anr. ... Petitioners.

V/s.

Mr. Hanumant Sambhaji Sawant and Ors. ... Respondents.

Mr. Sagar Mane i/b. Shailesh Chavan for the Petitioners.
Mr. A.D. Kango, AGP for Respondents 3 to 5.

CORAM : N.M. JAMDAR, J.

DATE : 21 NOVEMBER, 2015.

P.C. :-

The Petitioner – Management challenges the order passed by the School Tribunal dated 13 January 2014 partly allowing the Appeal filed by the Respondent No.1 and setting aside the order of his termination dated 31 March 2012.

2. The Respondent No.1 who was working as an Assistant Teacher with the Petitioner – Management attained the age of superannuation on 30 June 2011. Thereafter, an Enquiry Committee was instituted on 31 March 2012 after his retirement and his termination was effected by passing a Resolution on 30

March 2012. The Tribunal relied upon the decision of this Court in the case of ***Shah Banu Education Society, Patur v/s. Presiding Officer, School Tribunal Amravati and Aurangabad Divisions, Aurangabad and Ors. [(2006) 6 Mh.L.J. 547]*** and allowed the Appeal.

3. The learned Counsel for the Petitioner submitted that the Rule 33(4) of the M.E.P.S. Rules, 1981 relied upon by the School Tribunal is not applicable as it only refers to payment of subsistence allowances. However, the School Tribunal has not only based its conclusion on Rule 33(4) of the M.E.P.S. Rules, 1981 but on the decision of this Court in the case of ***Shah Banu Education Society*** (supra). The School Tribunal has noted that this Court has held that it is not open to the Management to continue an enquiry after superannuation of an employee.

4. No rule empowering the Management to continue an enquiry nor any position of law different than the one taken by the School Tribunal is shown.

5. In the circumstances, no fault can be found with the order of the Tribunal. Writ Petition is accordingly rejected.

(N.M. JAMDAR, J.)