

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7017 OF 2015

Local Secretary
Dayanand Shikshan Sanstha,
Solapur and anr.

.. Petitioners

vs.

Bharat G. Rajguru and anr.

.. Respondents

Mr. P.S. Dani, Sr. Advocate i/b Mr. Vijay Killedar for the Petitioner.
Mr. N.V. Bandivadekar a/w. Mr. Vivek Salunkhe for Respondent No.1.
Mr. S.D. Rayrikar, AGP for Respondent No.2.

CORAM : M. S. SONAK, J.

DATE : 16 NOVEMBER 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the Respondents, Rule is made returnable forthwith.

2] The challenge in this petition is to the judgment and order dated 30 April 2015 made by the School Tribunal, Solapur setting aside termination order dated 15 September 2014 and reinstating Respondent No.1 with continuity of service as Headmaster from the date of his termination alongwith full backwages and ancillary benefits.

3] One of the main reason which prompted the Tribunal to set aside the termination order is that the constitution of Enquiry

Committee was not in accordance with the provisions contained in the Maharashtra Employees of Private Schools (Conditions and Service) Rules, 1981 (said Rules). Rule 36 (2) of the said Rules *interalia* provides that one Member from the Panel of Headmaster, who has been conferred with State/National award is to be the Member of the Enquiry Committee. In the present case, Mrs. Ashalata Jagtap, Retired Headmistress was nominated as a Member of the Enquiry Committee. The Division Bench of this Court, in case of ***Lilatai A. Patil Vs. State of Maharashtra***¹ in the context of Rule 36(2) of the said Rules, has held that the nomination of a Retired Teacher or Headmistress will not constitute sufficient compliance. In view of this ruling of the Division Bench, it is not possible to fault the decision of the School Tribunal, insofar as the issue of constitution of Enquiry Committee is concerned.

4] However, considering the charges leveled against the Respondent No.1, it will be appropriate if chargesheet in accordance with the provisions of said Act and said Rules is issued to the Respondent No.1 and thereafter, enquiry is conducted by constituting enquiry committee in accordance with Rules. Further, such Enquiry Committee to conduct the enquiry in accordance with

1 Writ Petition No. 5867 of 2008 decided on 18 November 2008

the provisions of said Act and Rules made thereunder, in an expeditious manner. The direction to this effect, will meet the ends of justice and accordingly the same is hereby issued.

5] Mr. Bandivadekar, learned counsel for Respondent No.1, complains that there have been defaults in the matter of payment of subsistence allowance. Accordingly, it is directed that the arrears of subsistence allowance be paid to the Respondent No.1 as expeditiously as possible and in any case within a period of four weeks from today. Respondent No.1 shall be deemed to have placed on suspension from the date of termination order dated 15 September 2014. Such suspension, shall ultimately abide by final orders that may be made by the School Management on the basis of fresh enquiry now directed. The enquiry to commence only after such arrears are cleared. Further, directions are issued to complete the enquiry within a period of four months from today.

6] This Court has not examined the merits of the matter and therefore, all contentions of all parties are kept open.

7] Rule is disposed off in the aforesaid terms. There shall be no order as to costs.

8] The aforesaid order is made in presence of Respondent No.1.

9] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

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