

Sequeira

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

CIVIL APPLICATION NO.79 OF 2015

(For condonation of delay)

WITH

REVIEW PETITION Stamp NO.22723 OF 2014

in

WRIT PETITION NO. 12011 OF 2012

Shri Prabhakar Shivaji Suryawanshi

.. Applicant

Vs.

The President

Nageshwar Shikshan Prasarak Sanstha

Nagapur & ors.

.. Respondents

Mr.Satyajeet Rajeshirke, for the Applicant.

Mr.N.V.Bandiwadekar a/w Mr.Sagar Mane, for Respondent Nos.1 & 2.

Mr.S.D.Rayarikar-Assistant Government Pleader, for Respondent Nos.3 & 4.

CORAM: N.M.Jamdar, J.

Friday 10 July, 2015.

PC.:

By the Civil application the delay in filing the Review petition is sought to be condoned. The delay is of 149 days. For reasons mentioned in the application, which are found to be sufficient, the application is allowed. The Review application is taken up for consideration.

2 By order dated 25 March 2014, which is under review, the Writ petition filed by the Petitioner challenging the order passed by

School Tribunal dated 13 September 2012 was rejected. The Tribunal had dismissed the appeal filed by the Review Petitioner, questioning the act of the Respondent-management in accepting the resignation and terminating of his services.

3 The learned counsel for the Review Petitioner submitted that the effect of the Section 7 of the Maharashtra Employees of Private Schools (Conditions of service) Regulation Act, 1977 was not considered. He submitted that Section 7 provides mandatory procedure for the purpose of accepting resignation. According to him this procedure has been laid down to safeguard the interest of the employees. The learned counsel for the Respondent-Management pointed out that this ground is not taken up in the appeal memo before the School Tribunal and also in the Writ petition.

4 The School Tribunal has not rendered any finding as regards the Section 7 as this point was not contested before the Tribunal. This point was also not taken in the Writ petition. This argument therefore cannot be allowed to be agitated for the first time in the review jurisdiction. Also this argument will entail factual enquiry. The Writ petition was dismissed on the ground that the view taken by the Tribunal was a possible view of the matter. No cogent reason is shown to review the order.

The Review Petition is accordingly rejected.

(N.M.Jamdar, J.)