

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

***WRIT PETITION NO. 8919 OF 2013***

Mhatre Minakshi Namdeo & ors.

... Petitioners

v/s

State of Maharashtra & ors.

... Respondents

Mr.R.S. Apte, senior counsel with Mr.N.R. Bubna for the petitioners.

Mr.Vikas Mali, A.G.P. For respondent Nos.1 to 4.

Mr.S.C. Daswadikar for Resp. Nos.7 and 8.

***CORAM: SMT. VASANTI A. NAIK &  
SHRI C. V. BHADANG, JJ.***

***DATED : 28 JANUARY 2015***

***P.C.:***

Heard.

By this petition the petitioner seeks a direction to the respondent Nos.1 to 4 to absorb the petitioners and grant them the benefits of service in accordance with law.

The petitioners were appointed on teaching and non-teaching posts in the school run by the respondent No.5 Trust some time in the year 2004-05 and the services of the petitioners were terminated in June 2010 on the ground that they were surplus.

The petitioners challenged the order of the termination before the School Tribunal, Pune. The School Tribunal, Pune, dismissed the appeals filed by the petitioners under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act. It was observed by the Tribunal that the petitioners were not appointed by the management after following the due procedure and therefore the appointments of the petitioners were not made in accordance with Section 5 of the Act of 1977.

Being aggrieved by the judgment of the Tribunal, the petitioners have filed writ petitions and the same are pending. In the meanwhile, the recognition of the school run by the respondent No.5 was cancelled by the State Government and the teachers working in the said school at the relevant time were declared surplus. Since the State Government is considering the absorption of the surplus teachers in other schools, the petitioners have filed the instant petition seeking their absorption.

It is the case of the petitioners that the petitioners and the other surplus teachers were appointed in the similar fashion and since the other employees working in the school at the time of de-recognition are absorbed, the petitioners are also entitled to be absorbed.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioners cannot be granted. The

petitioners and the other employees who were working in the school at the time of de-recognition of the school fall in two different classes. The services of the petitioners were terminated in the year 2010 and they had filed appeals challenging the orders of termination. The School Tribunal had dismissed the appeals filed by the petitioners. The School Tribunal found that the petitioners were not appointed by following the due procedure. Though it is the case of the petitioners that the petitioners and the other employees working in the school were appointed in similar manner, the said fact cannot be considered in this writ petition. There cannot be an issue about the legality or otherwise of the appointments of the other teachers working in the school at the time of de-recognition. Merely because the other employees are absorbed in other schools, the petitioners cannot seek their absorption, more so, when the appeals filed by the petitioners challenging their termination are dismissed by the School Tribunal.

For the reasons aforesaid, we dismiss the writ petition with no order as to costs.

**(C. V. BHADANG, J.)**

**(VASANTI A. NAIK, J.)**