

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9796 OF 2014

Shetkari Shikshan Mandal Dholgarwadi,
Dholgarwadi and ors.

.. Petitioners

vs.

Shri. Raju D. Kagnikar and ors.

.. Respondents

Mr. Satyajeet Rajeshirke for the Petitioners.

Mr. Amit Borkar for Respondent No.1.

Mr. A.R. Metkari, AGP for Respondent No.3.

CORAM : M. S. SONAK, J.

DATE : 21 JULY 2015.

P.C. :-

1] In this petition, the challenge is to the order dated 31 July 2014, by which the School Tribunal has permitted respondent No.1 to amend the appeal memo and add certain grounds to question his termination.

2] Mr. Rajeshirke, learned counsel for the petitioners, submits that the impugned order is unreasoned. Further, the grounds which the respondent No.1 proposes to raise were well within his knowledge when the appeal was initially lodged. Mr. Rajeshirke also submits that by way of amendment for the first time, the respondent No.1 seek to raise the ground of *mala fide* and this is impermissible.

For all these reasons, Mr. Rajeshirke submits that there is jurisdictional error in making of the impugned order and same needs to be corrected by this Court under Article 226 of the Constitution of India.

3] Having heard learned counsel for the petitioner and perused the record, in my judgment, no case whatsoever is made out to interfere with the impugned order. All that the Tribunal has done is to allow respondent No.1 to amend the memo of appeal questioning his termination by raising some additional grounds. The circumstance that the amendment is allowed does not mean or imply that the merit or veracity of such ground is accepted. That is a matter which will be considered by the Tribunal at the stage of merits. However, there is absolutely no jurisdictional error or for that matter any error at all in making of the impugned order. Accordingly, no case is made out to entertain the present petition.

4] This is a fit case where costs should be imposed upon the petitioner, i.e., Shetkari Shikshan Mandal Dholgarwadi. However, learned counsel for the petitioners points out that the School Tribunal whilst allowing the application for amendment of appeal

memo by respondent No.1, had not awarded any costs in favour of the petitioners herein. Accordingly, in such circumstances, this Court refrains from imposing any costs upon the petitioners.

5] Accordingly, this petition is dismissed. However, the School Tribunal is directed to dispose of Appeal No. 24 of 2014, as expeditiously as possible and in any case within a period of three months from today.

6] All parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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