

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1035 OF 2015

...

The Head Master,
 Gurukul Vidyalaya & Anr.

...Petitioners

v/s.

Shri Ajit Ganpati Suryawanshi & ors.

...Respondents

...

Mr.Atharva Dandekar i/b Mr.A.Y.Gore for the Petitioners.

Mr.Rajaram V.Bansode for Respondent No.1.

Ms.Anjali Helekar, AGP for the State.

...

CORAM : A.A. SAYED, J.

DATED : 25 JUNE 2015

P.C.:

The challenge in this Petition is to the order dated 12 February 2015 of the School Tribunal rejecting Pursis/Application of the Petitioners (original Respondents Nos. 1 & 2) alleging that Respondent No.1/original Appellant was not terminated and was continuing as a teaching staff of the Petitioner No.2-School and as there was no cause of action u/s 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and therefore nothing remained in the matter and the Appeal u/s 9 filed by the Respondent No.1 be dismissed.

2. In the impugned order it has been recorded that in the affidavit at Exh.17, the Respondent No.1 has stated that he had filed the Appeal

against the otherwise termination dated 27 March 2014. It was contended by the Respondent No.1 that the Management had started harassment for non-fulfilling of their illegal demands and the Management had issued number of memos, which were replied to by the Respondent No.1. It was asserted by the Respondent No.1 that upto 25 March 2014, he was working in the Petitioner No.2-School as a Assistant Teacher and thereafter he was restrained from signing the muster and not allowed to work on 27 March 2014. According to Respondent No.1, the Management was unauthorizedly obstructing him to discharge his duties from 27 March 2014.

3. After hearing the learned Counsel, the School Tribunal arrived at a prima facie conclusion that the Petitioners (original Respondents Nos. 1 & 2) did not allow the Respondent No.1 to sign the muster and did not allow him to work. The School Tribunal held that the Respondent No.1 had come with a case of otherwise termination by the Petitioners and it would not be just and proper without giving an opportunity of being heard to the Respondent No.1 on merits to dismiss the Appeal on the basis of Pursis. It is further observed in the impugned order that no prejudice would be caused to the Petitioners if the Appeal is finally heard on merits and adjudicated.

4. Having heard the learned Counsel for parties, I am not inclined to entertain the Writ Petition. The Respondent No.1 had come with a positive case of otherwise termination and the Appeal would have to be heard and finally decided on merits. No interference is warranted with the impugned order.

5. The Petition shall accordingly stand dismissed. No order as to costs.

6. Upon the request of the learned Counsel for the Petitioners, it is clarified that the impugned order and this order would not come in the way of the Petitioners at the time of final hearing of the Appeal.

(A.A. SAYED, J.)