IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5828 OF 1995

1. Hindustan Education Society,
Through its Secretary,
Shri Yunus Daud Patel,
Age 38 years, r/o Andhari,
Tq. Sillod, Dist. Aurangabad.

2. The Head Master,
Hindustan Urdu Primary
School, Andhari,
Tq. Sillod, Dist. Aurangabad. ..Petitioners

Versus

1. Sk.Shaqeel Sk. Gulam
Age major, R/o Andhari,
Tq. Sillod, Dist. Aurangabad.

2. The State of Maharashtra

3. The Education Officer
Zilla Parishad, Aurangabad.

4. School Tribunal at Aurangabad
Through its Presiding Officer.

5. Sk. Yasin Abdul Taher
Age major, Occ. Service
R/o Malkapur, Dist. Buldhana.

6. Mohd. Nasim J.K.Bismilla
Age major, Occ. Service
R/o Barkholi, Tq. Natholda,
District Buldhana.

7. Mohd. Rafiq Raheman
Shaikh Rahman, age major,
occ. Service
R/o Wadgaon, Tq.Balapur
District Akola. ..Respondents

...

Advocate for Petitioner : Shri V.D.Salunke
AGP for Respondent 2 : Shri Borade P.G.
Advocate for Respondent 1 : Smt. A.N.Ansari
Advocate for Respondent 3 : Shri Irale Patil (Absent)
Advocate for Respondents 4 to 6 : Served
Advocate for Respondent 7 : Dismissed.
...
CORAM : RAVINDRA V. GHUGE, J.
Dated: July 25, 2016
...

ORAL JUDGMENT:-

1. The petitioner / management has challenged the judgment dated 20.10.1995, delivered by the School Tribunal, Aurangabad in the matter of the present respondent No.1, who had preferred Appeal No.144 of 1993-A and in the matter of another employee, namely, Shaikh Kalim Shaikh Gulam Nabi in Appeal No.145 of 1993-A.

2. By the said impugned judgment, the termination of the petitioner herein as well as Shaikh Kalim was set aside and the petitioner / management was directed to reinstate the appellants with continuity of service, but without backwages.

3. This Court, while admitting the petition, granted interim relief in terms of prayer clause (D), which reads as under:-

> *"(D) Pending the hearing and final disposal of this writ petition, the Judgment and Order passed by the learned Presiding Officer,School Tribunal, Aurangabad dated 20.10.1995 in Appeal No.144 of 93-A, which is at Exhibit "I"*

may kindly be stayed. ”

4. Shri Salunke submits that the case of Shaikh Kalim, who is party to the common impugned judgment of the School Tribunal was taken to the Honourable Supreme Court in a Special Leave Petition in the matter of this petitioner Hindustan Education Society Vs. Shaikh Kalim [1997 AIR SCW 2126]. The Honourable Apex Court, by the said judgment, has allowed the plea of the management through the appeal and concluded that the appointment of Shaikh Kalim cannot be said to be a permanent appointment and therefore, the direction of the High Court to treat Shaikh Kalim as a permanent employee was quashed and set aside. He, therefore, submits that the termination of Shaikh Kalim was sustained by the Honourable Supreme Court.

5. Smt. Ansari, learned Advocate appearing for the identically situated respondent No.1 herein strenuously submits that the impugned judgment of the School Tribunal deserves to be sustained and the petition filed by the management deserves to be dismissed. She prays for heavy costs as well as continuity in service with full backwages and all consequential benefits of permanency for respondent No.1.

6. I have considered the submissions of the learned Advocates.

7. The first respondent / employee is identically placed with Shaikh Kalim Shaikh Gulam Nabi. There is no dispute that the appointment order issued to both indicates that the appointment was purely temporary for one academic year. The Honourable Supreme Court, while considering the case of Shaikh Kalim has upheld the termination and has concluded that the appointment of the employee cannot be said to be a permanent employment.

8. In the light of the above, I find no circumstances so as to adopt a different view in this matter. This petition is, therefore, allowed and the impugned order of the School Tribunal dated 20.10.1995 is quashed and set aside.

9. Rule is made absolute.

(RAVINDRA V. GHUGE, J.)

...

akl/d