

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1190 OF 2016

Seeta d/o Pandurang Adhapure,
Age : 40 years, Occupation : Nil,
R/o Jatnandur, Tq.Shirur (Kasar),
District Beed.

...PETITIONER

-VERSUS-

- 1 Smt.Fundabee Pathan Shikshan
Prasarak Mandal, Nalwandi,
Tq.Patoda, District Beed.
Through its Secretary,
Janu s/o Lala Pathan,
Age : 60 years, Occupation : Secretary,
R/o Nalwandi, Tq.Patoda,
District Beed.
- 2 The Headmaster,
Janpir Madhyamik Vidyalaya,
Nalwandi, Tq.Patoda,
District Beed.
- 3 The Education Officer (Secondary),
Zilla Parishad, Beed.

...RESPONDENTS

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Advocate for Petitioner : Shjri Talekar S.B. a/w Shri Ajinkya Kale.
Advocate for Respondents 1 and 2 : Shri PR.Nangare.
AGP for Respondent 3 : Shri N.T.Bhagat.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th December, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The Petitioner is aggrieved by the judgment and order of the School Tribunal, Aurangabad dated 21.10.2015 by which Appeal No.25/2014 filed by her has been dismissed.

3 I have considered the strenuous submissions of Shri Talekar, learned Advocate on behalf of the Petitioner and the learned Advocates on behalf of the Respondents. With their assistance, I have gone through the record available.

4 Shri Talekar has drawn my attention to the 22 grounds for challenge set out in the memo of the petition. He has strenuously criticized the impugned judgment of the School Tribunal.

5 There is no dispute that the Petitioner was appointed for the period 12.10.2009 till 30.04.2010 on temporary basis as an Assistant Teacher. There is no dispute that no specific procedure for selection and appointment was followed. The appointment order dated 12.10.2009 was followed by the appointment order dated 01.10.2010 by virtue of which

the Petitioner was in temporary employment as an Assistant Teacher. The approval granted by the Education Officer was also on temporary basis in pursuance to the appointment order.

6 The Petitioner approached to the School Tribunal contending that she was orally terminated on 15.06.2012. The Respondent/ Management has taken a stand that the Petitioner resigned on 29.03.2011 with effect from 30.04.2011. Consequentially, she was relieved after 30.04.2011. The copies of the letter of notice for resignation dated 29.03.2011 and actual resignation dated 30.04.2011 were placed on record before the School Tribunal by the Respondent/ Management. The Written Statement specifically indicates that the Management had taken a stand that the Petitioner has resigned.

7 I find it quite surprising that despite the above, the Petitioner neither filed an additional affidavit denying the resignation or contending that it was a forced resignation, nor did the Petitioner deny the documents or it's contents or her signature. The School Tribunal has specifically observed in paragraph 18 that despite granting opportunities to the Petitioner to confront the notice of resignation and the resignation, she failed to contradict either of the said two documents. She did not deny the contents of the said documents, she did not deny her signatures and also

she did not file any rejoinder or any additional affidavit. Based on these facts and the documents placed before the School Tribunal, it was concluded that the Petitioner had tendered her resignation and had resigned.

8 Insofar as the aspect of “Tachan Vahi”, which is the record of day to day teaching of a teacher, is concerned, few pages indicating that the Petitioner had worked in March, 2012 and April, 2012 were placed before the School Tribunal. It is quite surprising that after 30.04.2011, there is no document to indicate that the Petitioner had worked with the Respondent/ Management. The Education Department also could not indicate that the Petitioner had worked in the academic year 2011-2012. In this backdrop, the documents which are extracts of the “Tachan Vahi” have been placed on record.

9 What is surprising is that how come the portion of the “Tachan Vahi” for March and April, 2012 came into the custody of the Petitioner when she has not denied her resignation w.e.f. 30.04.2011. The School Tribunal has concluded that the said document appears to be unbelievable keeping in view that neither the muster roll for the academic year 2011-2012, nor does the inspection remark of the Block Education Officer indicate that the Petitioner was working in the said academic year.

10 Considering the above, the School Tribunal has accepted that the Petitioner has resigned from service and as such, there was no cause of action after 30.04.2011.

11 In the light of the above, I do not find that the impugned judgment could be termed as being perverse or erroneous. This Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)