

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

WRIT PETITION NO. 4394 OF 2016

1 Navin Osmanabad Zilla Balvikas  
Samity, Bank Colony, Osamanbad.  
Taluka and District Osmanabad.  
Through its Secretary.

2 Saraswati High School,  
Bank Colony, Osmanabad,  
Taluka and District Osmanabad.  
Through its Headmaster.

...PETITIONERS

-VERSUS-

1 Pramod Trimbakrao Pawar,  
Age : 46 years, Occupation : Nil,  
R/o Behind Naigaonkar Complex,  
Samtanagar, Osmanabad,  
Taluka and District Osmanabad.

2 The Education Officer (Secondary),  
Zilla Parishad, Osmanabad.

...RESPONDENTS

...  
Advocate for Petitioners : Shri S.C.Swami h/f Shri Gunale V.D.  
Advocate for Respondent No.1 : Shri S.S.Jadhavar.  
AGP for Respondent 2 : Shri P.N.Kutti.

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 06<sup>th</sup> October, 2016**

Oral Judgment :

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

2           The Petitioners/ Management is aggrieved by the judgment dated 27.11.2015 by which the School Tribunal has allowed Appeal No.66/2014 filed by Respondent No.1/ Employee. His termination dated 19.06.2013 is set aside and he has been granted reinstatement with continuity of service, but without back wages.

3           The Petitioners are before this Court for a limited purpose. The contention is that the impugned judgment is an ex-parte judgment. There is no dispute on this count since though the Petitioners/ Management caused an appearance through an Advocate, the Written Statement was not filed, inasmuch as they did not effectively participate in the proceedings before the School Tribunal.

4           Shri Jadhavar, learned Advocate for Respondent No.1/ Employee/ original Appellant, points out that there was delay in filing of his appeal. The application for condonation of delay was filed. The Petitioners/ Management appeared in the said proceedings, but did not choose to file their Say to the said application. Eventually, the application was allowed and by condoning the delay, the appeal was registered. He

points out that the Petitioner/ Management has not challenged the order of condonation of delay.

5 I have considered the submissions of the learned Advocates and have gone through the petition paper book with their assistance.

6 The Roznama of the School Tribunal has been produced on record. After registering the appeal on 21.08.2014, the matter was adjourned to enable the Petitioner/ Management to file their reply. The matter was adjourned on 26.09.2014 due to holiday and again on 20.11.2014 on the request of the Petitioner/ Management. An adjournment for filing the Vakilpatra was sought by the Petitioner on 18.12.2014. Thereafter, adjournments for filing the Say to the appeal were sought by the Petitioner/ Management on 22.01.2015, 29.01.2015, 26.03.2015, 30.04.2015, 23.07.2015, 20.08.2015, 03.09.2015, 01.10.2015 and 19.11.2015.

7 On 19.11.2015, the School Tribunal heard the Appellant's Advocate's final oral submissions on the appeal. Even thereafter, the matter was adjourned on two occasions on 23.11.2015 and 26.11.2015. Neither did the Petitioners tender their Written Statement nor did they effectively participate in the proceedings. It is in this backdrop that the

impugned judgment was delivered on 27.11.2015.

8           There can be no dispute that the impugned judgment has been delivered after hearing the learned Advocate for Respondent No.1/ Employee alone due to the conduct of the Petitioners/ Management recorded above. Since the appeal was pending adjudication for more than a year, I do not find that an irreparable loss, manifest inconvenience or grave hardship would be caused to Respondent No.1/ Employee if the matter is remitted to the School Tribunal. However, it cannot be ignored that Respondent No.1/ Employee is without any source of income and is unable to feed his family ever since his termination. His miseries cannot be ignored, which can be compensated by imposing costs on the Petitioners/ Management because the Petitioners/ Management's conduct has led to this situation.

9           In the light of the above, this Writ Petition is partly allowed. The impugned judgment dated 27.11.2015 is set aside and Appeal No.66/2014 is remitted to the School Tribunal, Pune Region at Solapur only on the condition that the Petitioners/ Management shall deposit an amount of Rs.50,000/- (Rupees Fifty Thousand) before the School Tribunal on or before 21<sup>st</sup> October, 2016.

10 Respondent No.1/ Appellant is permitted to withdraw the said amount of Rs.50,000/- without conditions from the School Tribunal. A request for extension of time to deposit the amount shall not be entertained.

11 The litigating sides shall appear before the School Tribunal on 21.10.2016. The Petitioners/ Management shall file their Written Statement along with all such documents on which they desire to place reliance, on 21.10.2016. Thereafter, the School Tribunal shall decide the appeal in accordance with the procedure and on its own merits. All contentions of the litigating sides are kept open.

12 Needless to state, if the Petitioners fail to deposit the above stated amount, this order shall stand recalled and the impugned judgment of the School Tribunal dated 27.11.2015 shall stand restored and Appeal No.66/2014 shall then stand disposed of in terms of the impugned judgment.

13 Rule is made partly absolute in the above terms.