

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1466 OF 2016

Dnyaneshwar Yashwant Suryawanshi,
Age 33 years, Occu. Service,
R/o Vishwanath, Taluka and
District Dhule.

...Petitioner...

Versus

- 1 Shikshan Prasarak Mandal,
Mohadi (Pr. Dangri), Taluka
and District Dhule.
(notice to be served on the
President)
- 2 The Head Master/Principal,
Nutan Vidyalaya & Higher
Secondary School,
Mohadi (Pr. Dangri), Taluka
and District Dhule.
- 3 The Deputy Director of Education,
Nashik Division, Nashik.
...Respondents...

.....

Shri Sachin S. Deshmukh, Advocate for petitioner.
Shri Parag V. Barde, Advocate For respondent nos.1 & 2.
Shri D.V. Tele, AGP for respondent no.3.

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CORAM: RAVINDRA V. GHUGE, J.

DATE: 16.02.2016

ORAL JUDGMENT :

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

2] The petitioner is the original appellant in Appeal No.50/2012, which is pending adjudication before the Presiding Officer, School Tribunal, Nashik. The petitioner is aggrieved by the order dated 10.9.2015 passed by the School Tribunal, by which application (Exh.50) seeking addition of a retired Head Master Shri Ashok Madhavrao Suryawanshi as respondent no.4 in the appeal has been rejected.

3] Shri Deshmukh, learned Advocate appearing on behalf of the petitioner, strenuously criticizes the impugned order. Contention is that the proposed respondent no.4 was the Head Master at the relevant time when the proposal of the petitioner was forwarded to the Education Department. The process leading upto the appointment of the petitioner dates back to the tenure of the said Head Master. As a response to the appeal, the respondent no.1 – management has put forth its written statement containing such averments, which run counter to the steps taken by the proposed respondent. It was in this backdrop that the petitioner had preferred

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application (Exh.50) seeking leave of the Tribunal to add the retired Head Master as respondent no.4.

4] Shri Deshmukh submits that the impugned order suffers from errors. The School Tribunal has lost sight of the fact that the proposed respondent would submit a written statement, which would assist the Tribunal in properly adjudicating upon the appeal. The adverse contentions put forth by the respondent – management, which are against the record, would be exposed by the former Head Master. The Tribunal should have considered this aspect and should have allowed the application.

5] He further submits that the School Tribunal had initially passed an order on 11.7.2013 calling for a reply from the proposed respondent. He had filed his reply on 12.2.2015. Considering the contents of the reply of the proposed Head Master, the School Tribunal should have allowed application (Exh.50).

6] Shri P.V. Barde, learned Advocate appearing on behalf of the respondent nos.1 & 2, has supported the impugned order. It is submitted that the Tribunal has to decide as regards who would be a proper and necessary respondent. The Tribunal has to decide whether the

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proposed respondent is required to be arrayed and as to whether his absence would disable or would create obstacles in the proper adjudication of the appeal. He, therefore, submits that the Tribunal has considered this legal aspect and has rightly rejected the application.

7] Learned AGP appearing on behalf of the respondent no.3 – Deputy Director of Education, submits that no response is required from the said respondent as the issue with regard to Exhibit 50 is a matter between the appellant and his employer.

8] I have considered the submissions of the learned Advocates as have been recorded hereinabove.

9] It is undisputed that the appeal preferred by the petitioner is with regard to his termination from service. Same constitutes a service dispute. Neither has the petitioner made personal allegations against the proposed respondent nor any relief has been prayed for against him.

10] So also, in service disputes, documents, which are part of the official record, would speak louder than words. The proposed Head Master has performed his duties in his capacity of being the Head Master, which can be

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said to be in discharge of his official duties. Retirement of the proposed respondent would not mean that post retirement, he would be a necessary party to the proceedings. As the present Head Master has stepped into the shoes of the earlier Head Master, it is purely a matter of record that is required to be brought before the Tribunal for the proper adjudication of the matter.

11] In the above backdrop, I am of the view that the rejection of Exhibit 50 by the impugned order can neither be termed as being a perverse order nor erroneous.

12] Needless to state, the petitioner would always be at liberty to place reliance upon the official records while the Tribunal adjudicates upon his appeal. If he so desires, he may lead evidence through the proposed respondent. For the said purpose, the proposed respondent is not required to be arrayed in the appeal.

13] In the light of the above, this petition, being devoid of merit, is, therefore, dismissed. Rule is discharged. No order as to costs.

(RAVINDRA V. GHUGE, J.)