

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5569 OF 2016

1. Ashta Shikshan Sanstha,
Ashta Kasar, Tal.Lohara,
Dist.Osmanabad,
Through its Secretary,
Subhash Karbasappa Tadkale,
Age-61 years, Occu-Agriculturist
and legal practitioner,
r/o Ashta Kasar, Tal.Lohara,
Dist.Osmanabad

2. The Head Master,
Ashta High School,
Ashta Kasar, Tal.Lohara,
Dist.Osmanabad

-- PETITIONERS

VERSUS

1. Pradeep Baburao Dede,
Age-35 years, Occu-Service as Peon,
R/o Ashta Kasar, Tal.Lohara,
Dist.Osmanabad,

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

-- RESPONDENTS

WITH
WRIT PETITION NO.5570 OF 2016

1. Ashta Shikshan Sanstha,
Ashta Kasar, Tal.Lohara,
Dist.Osmanabad,
Through its Secretary,
Subhash Karbasappa Tadkale,
Age-61 years, Occu-Agriculturist
and legal practitioner,
r/o Ashta Kasar, Tal.Lohara,
Dist.Osmanabad

2. The Head Master,
Ashta High School,
Ashta Kasar, Tal.Lohara,
Dist.Osmanabad -- PETITIONERS

VERSUS

1. Ganesh Sambhaji Gite,
Age-25 years, Occu-Service,
R/o Ashta Kasar, Tal.Lohara,
Dist.Osmanabad,
2. The Education Officer (Secondary),
Zilla Parishad, Osmanabad -- RESPONDENTS

WITH
WRIT PETITION NO.5571 OF 2016

1. Ashta Shikshan Sanstha,
Ashta Kasar, Tal.Lohara,
Dist.Osmanabad,
Through its Secretary,
Subhash Karbasappa Tadkale,
Age-61 years, Occu-Agriculturist
and legal practitioner,
r/o Ashta Kasar, Tal.Lohara,
Dist.Osmanabad
2. The Head Master,
Ashta High School,
Ashta Kasar, Tal.Lohara,
Dist.Osmanabad -- PETITIONERS

VERSUS

1. Shriniwas Shivappa Allishe,
Age-24 years, Occu-Service,
R/o Ashta Kasar, Tal.Lohara,
Dist.Osmanabad,
2. The Education Officer (Secondary),
Zilla Parishad, Osmanabad -- RESPONDENTS

Mr.V.D.Gunale, Advocate for the petitioner.
Mr.P.G.Borade, AGP for respondent No.2.
Mr.A.N.Sabnis h/f Mr.V.G.Kodale, Advocate for respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 26/07/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner/Educational Institution has challenged the impugned judgments of the School Tribunal dated 31/03/2016 in Appeal No.46/2015, 1/4/2016 in Appeal No.47/2015 and 31/03/2016 in Appeal No.44/2015.
3. It is categorically stated by the petitioners that in the light of the pending litigation as regards the elections and change reports of the petitioner/Society, the present Secretary is petitioner No.1 and the present Head Master of the School is petitioner No.2. It is based on the said categoric statement that I have entertained these 3 petitions. It needs mention that one of the Members of the petitioner/Educational Trust, who had filed WP No.6892/2016, 6893/2016 and 6894/2016, has withdrawn the said petitions on instructions.

4. The petitioner/society and the Head Master have challenged the impugned judgments only to the extent of the direction of the School Tribunal at clause 3 in the operative part of the impugned judgments, by which the petitioner society is directed to pay full back wages to the original appellants who have succeeded before the Tribunal.

5. Learned Advocate for the petitioners as well as the learned Advocate for respondent No.1/Employee have jointly submitted that the appointment of these employees was strictly in accordance with the Rules and the MEPS Act.

6. Learned AGP appearing on behalf of respondent No.2 / Education Officer (Secondary) points out that a specific reply was filed by his Department before the Tribunal contending that there were certain lacunas in the appointments of the respondents/employees. He, however, submits in the light of the impugned judgments that the Tribunal has concluded that these appointments cannot be said to be illegal and the said appointments are in tune with the provisions of the Act and the Rules applicable. He further submits that the Education Officer (Secondary) has not preferred any challenge to the impugned judgments on the ground that his objections to the appointments of the appellants has been set aside by the Tribunal.

7. Mr.Gunale, learned Advocate for the petitioners in all these matters submits that there were advertisements for filling in the respective posts which are now occupied by the respondents/ employees. There was a selection to the said posts. Those employees, who were selected by the Committee, were appointed by passing a specific resolution. They have been appointed on probation. They have presently completed their probation periods. The roaster that was applicable with regard to the reservations was also followed and the staffing pattern was fully complied with. It is further submitted that those employees, who have been absorbed from the surplus list under the orders of the Education Officer, have not been disturbed by these appointments.

8. It is further submitted that the petitioner / Society running the school is 100% grant-in-aid. It was under the directions of the Education Officer that the respondents/employees were prevented from signing the muster roll and therefore they had approached the School Tribunal alleging oral termination. Their salaries are to be paid from the salary grants. In this backdrop, the School Tribunal could not have directed the Management to pay full back wages on the ground that the employees have been illegally terminated by the Management. It is conceded by the petitioners that the respondents/employees were terminated since the Education Officer had directed the Management to

dispense with their services.

9. In the light of the above and considering that the petitioner is a grant-in-aid Institution, the contention of Mr.Gunale needs to be accepted.

10. It needs mention that the petitioner has not challenged the judgments of the Tribunal, to the extent of the directions to reinstate the respondents/employees with continuity in service.

11. In the light of the above, these petitions are partly allowed only to the extent of modifying the direction of the School Tribunal at clause 3 in the impugned judgments by which the petitioner was directed to pay full back wages of these employees.

12. Consequentially, the petitioners shall now forward the proposal / bills towards back wages of the respondents/employees to the Education Department within a period of 4 (four) weeks from today. Respondent No.2 / Department, upon receiving the said proposal / bills, shall consider them in accordance with the rules applicable and after calculating the back wages, shall pass necessary orders for the payment of such back wages within a period of 8 weeks.

13. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)