

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

WRIT PETITION NO. 7170 OF 2007

Shaikh Gafar Shaikh Chandsab
Age: 34 years, Occ.: Service,
R/o Joshi Galli, Deglur,
Tq. Deglur, Dist. Nanded.

..PETITIONER

VERSUS

1. The Lokhit Shikshan Sanstha
Ambedkar Nagar, Deglur,
Tq. Deglur, Dist. Nanded.
Through its Secretary.

2. Savitribai Phule Primary and
Secondary High School,
Ambedkar Nagar, Deglur,
Tq. Deglur, Dist. Nanded.
Through its Headmaster.

3. The Education Officer,
(Primary/Secondary),
Zilla Parishad, Nanded.
Dist. Nanded.

..RESPONDENTS

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Mr. R.D. Biradar, Advocate for petitioner.
Mr. V.D. Gunale, Advocate for Respondent Nos.1 and 2.
Mr. V.S. Panpatte, Advocate for Respondent No.3.

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 28th JANUARY, 2016**

ORAL JUDGMENT :

This petition was admitted by order dated 11.12.2007. By way of an interim relief, the respondent-management was directed to keep one post of a peon vacant if it is available and the same shall not be filled in until the claim of the petitioner is considered.

2. I have heard the learned Counsel for the respective sides at length.

3. I am remanding the Appeal No.68/2006 to the School Tribunal, Latur only on the ground that the relevant documents, which have now been placed on record by the respondent-management, were not produced before the School Tribunal, in as much as, the Education Officer (Primary), Zilla Parishad, Nanded, had not filed its say/written statement to the appeal so as to assist the Tribunal.

4. The Tribunal has come to the conclusion that the petitioner was working with the respondent-management for 14

years and it is an unfortunate situation that the petitioner cannot be regularised since there is no post available.

5. The observations of the School Tribunal in favour of the petitioner have not been challenged by the respondent-management on the ground that eventually, the appeal was dismissed by the said judgment.

6. I do not find from the impugned judgment as to whether the Tribunal has considered the availability of a vacant post. So also, the documents placed on record by the respondent-management along with its affidavit-in-reply dated 28.07.2015, were not before the Tribunal.

7. In my view, these documents need to be considered by the Tribunal so as to arrive at a conclusion as to whether the petitioner/appellant can be said to be entitled for any relief in his appeal. The sign of helplessness voiced by the Tribunal in the impugned judgment cannot be countenanced. The Tribunal will have to deal with the situation before it on the basis of the record

and come to a specific conclusion rather than showing signs of helplessness in not being able to grant any relief to the petitioner, though concluding that he had worked for 14 years as a peon.

8. Mr. Gunale, the learned Counsel for for management though has supported the impugned judgment, has placed before me a compilation of documents which according to him are various inspection reports under the signatures of the competent authority representing the Education Department. Similar documents are placed on record along with the affidavit-in-reply. He however frankly states that had these documents been cited before the Tribunal, it would have been better equipped to decide the controversy.

9. The documents produced by the petitioner before the Tribunal are alleged to be bogus documents by the management. The documents which were produced before this Court by the management, are branded to be bogus documents by the petitioner/appellant. Such disputed questions cannot be gone into

in the writ jurisdiction of this Court. It is in the above narrated circumstances that the impugned judgment dated 30.03.2007 of the school tribunal is quashed and set aside.

10. Appeal No.68/2006 is remitted to the School Tribunal, Latur. The litigating sides shall appear before the School Tribunal on 8th February, 2016. Within two weeks therefrom, the respondent-management shall place on record all such documents on which it desires to place reliance.

11. It is also made clear that the Education Officer, Zilla Parishad, Nanded who is Respondent No.3 in the appeal, shall also file a specific written statement indicating the fact situation with regard to the claim being made by the petitioner as well as the management. The written statement shall be filed by the Education Department on or before 11th March, 2016.

12. Since the appeal is of the year 2006, it is expected that the School Tribunal, Latur shall decide the same on its own merits,

and as expeditiously as possible and preferably on or before 31st May, 2016.

13. Therefore this petition is partly allowed and rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)