

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9064 OF 2014
WITH
WRIT PETITION NO.3069 OF 2015

BAHIRU SHIVRAM JAWLEKAR
VERSUS
KESHAV BANSI GUJAR AND OTHERS

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Advocate for Petitioner : Shri Choukidar S.R.
Advocate for Respondent 1 : Shri Gastgar S.B.
Advocate for Respondent 2 & 5 : Shri Bhavthankar V.V.
Advocate for Respondent 3 : Shri Madake D.A.
AGP for Respondent 4 : Shri Kaldate S.D.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 30, 2016

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PER COURT :-

1. On 8.8.2016, this Court had passed the following order:-

"1. The petitioner is aggrieved by the impugned order dated 07/08/2014, by which application Exh.15 in Misc.Appl. No.24/2013 filed by the petitioner seeking intervention in the pending proceedings before the School Tribunal under Order 1 Rule 10 of the CPC, has been rejected.

2. Mr.Choukidar strenuously submits that the petitioner is the Treasurer of the Aashish Shikshan Sanstha, Aurangabad. In the proceedings pending before the School Tribunal, the Secretary namely Mr.Ramesh Gajaba Mangate is not espousing the cause of the Society and is attempting to settle the service dispute with the original appellants out of Court. Under the Constitution of the Society, clause 10(7) empowers

the Chairman/President namely Mr. Ramdas Pandit at present, to take decisions after appraising the Governing Committee and obtaining its approval with regard to the service disputes of the employees. The Constitution does not empower the Secretary to take decisions on behalf of the Society thereby usurping the powers of the President.

3. Mr.Choukidar strenuously submits that neither is the Secretary empowered to give any concessions in the pending proceedings, nor is the President participating in the proceedings before the Tribunal. He, therefore, seeks leave to add the President of the Society in both these petitions.

4. Leave to add the President of the Aashish Shikshan Sanstha, Aurangabad as respondent Nos. 5, in both the matters, is granted. Addition be carried out forthwith.

5. Issue notices to the respondents in both the matters, returnable on 30/08/2016. Mr.Gastgar, learned Advocate has caused his appearance on caveat for respondent No.1 and waives service of notice. Learned AGP waives notice for respondent No.4. Hamdast allowed.

6. Since the petitioner is a Treasurer, who seeks intervention in the proceedings before the Tribunal, the issue of maintainability of this petition is kept open and would be considered after the respondents are served.

7. By consent of Mr.Choukidar and Mr.Gastgar, WP No.9064/2014 shall be heard alongwith this petition on the returnable date 30/08/2016. Parties to note that these petitions are likely to be heard at admission stage.

8. *Needless to state, considering the order passed by this Court on 25/11/2013* in WP No.3982/2011, the School Tribunal is at liberty to decide the applications for condonation of delay on their own merits and not on any concessions extended by the Secretary of the Society.”*

(Date corrected vide order passed on the motion for speaking to the minutes, dated 22.8.2016.)*

2. It is informed by the learned Advocates today that the School Tribunal has allowed the application for condonation of delay and the restoration application and Appeal No.2 of 2007 has been restored and is being considered by the Tribunal on it's own merits.

3. Learned Advocates for respondent 1 / Headmaster and respondents 2 & 5 / Educational Society submit that they would extend their proper assistance to the Tribunal in the pending appeal. Learned AGP also assures this Court that respondent No.4 / Education Officer (S), Zilla Parishad, Aurangabad would also extend his proper assistance to the Tribunal in deciding the pending appeal.

4. Since the petitioner is not the competent person to file these petitions on behalf of the Educational society, by recording the statements made by the learned Advocates as above, both these petitions are disposed off.

5. Needless to state, the School Tribunal is expected to decide the appeal on its merits by taking assistance of the Education Officer so as to ensure that there is no collusion between the management and the appellant before the Tribunal.

6. In the event, the parties decide to settle the matter, the Tribunal shall scrutinize the settlement terms and shall also scrutinize the authority of the management representative before passing orders on such settlement, if any.

(RAVINDRA V. GHUGE, J.)

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