

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7932 OF 2016

Kum. Jayashree Maruti Tandale,
Age 35 years, Occ. Asstt. Teacher,
R/o Laxmi Niwas, Gajanan Colon,
Shahu Nagar, Beed.

..Petitioner

Versus

1. The Head Master,
Lal Bahadur Shastri Madhyamik
Vidyalaya, Indraprastha Colony,
Nagar Road. Beed.

2. The Secretary,
Shrinath Shikshan Prasarak Mandal,
Kondyachiwadi, Tq. Kaij, Dist.Beed,
Through the Head Master,
Lal Bahadur Shastri Madhyamik
Vidyalaya, Indraprastha Colony,
Nagar Road. Beed.

3. The President,
Shrinath Shikshan Prasarak Mandal,
Kondyachiwadi, Tq. Kaij, Dist.Beed,
Through the Head Master,
Lal Bahadur Shastri Madhyamik
Vidyalaya, Indraprastha Colony,
Nagar Road. Beed.

4. The Education Officer
(Secondary Education),
Zilla Parishad, Beed.

..Respondents

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Advocate for Petitioners : Shri Andhale M.R.
Advocate for Respondents 1 to 3 : Shri Deshmukh S.S.
AGP for Respondent 4 : Shri Sonpawale S.P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 28, 2016

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. On 2.8.2016, I had passed the following order:-

“1. Leave to amend designation of respondent No.4. Amendment to be carried out forthwith.

2. The petitioner is aggrieved by the judgment of the School Tribunal, dated 9.6.2015, by which, a challenge to the termination dated 13.10.2008 by Appeal No.2 of 2011 has been rejected.

3. I have heard the learned Advocate for the petitioner for quite sometime. Though the documents on record indicate that she has worked in between 14.6.2004 till 13.8.2008 as an in-charge Head Mistress, there was no evidence before the Tribunal of the publication of any advertisement and a selection process having been adopted by the management. The Tribunal has rejected the appeal upon considering the ratio laid down by the Honourable Supreme Court in the matter of Priyadarshini Education Trust and Others Vs. Ratis (Rafia) Bano Abdul Rasheed and others [2007.

(6) ALL MR 238].

4. *Upon considering the record available, I find that the engagement of the petitioner as an in-charge Head Mistress was not by following the due procedure of appointment. The claim for deemed regularization has therefore, been rightly rejected by the Tribunal.*

5. *I am, therefore, inclined to consider this petition only to the extent of 'Whether, compensation could be granted to the petitioner under Section 11(2)(e) of the the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977' in view of the fact that the management has allowed the petitioner to work for about 4 years and then has orally terminated her services.*

6. *Issue notice to the respondents, returnable on 26.8.2016.*

7. *Learned AGP waives service for respondent No.4."*

5. Shri Deshmukh, learned Advocate has appeared on behalf of respondent Nos.1 to 3 / Educational institution and submits on instructions that considering the fact that the petitioner had worked temporarily for a period of about four years, this Court may grant compensation under Section 11(2)(e) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 ("the MEPS Act" for short). He further submits that the petitioner was temporarily engaged in a new establishment. No procedure for

selection and appointment was followed and it was only on year to year basis that she was temporarily engaged.

6. Considering the above, the respondent / management shall pay an amount equal to six months' salary as per the last drawn salary of the petitioner, inclusive of pay and allowances, under Section 11(2)(e) of the MEPS Act within ten weeks from today.

7. This petition is, therefore, disposed off by modifying the impugned judgment of the School Tribunal, in terms of the compensation to be paid.

8. Rule is made partly absolute in above terms.

(RAVINDRA V. GHUGE, J.)

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