

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

WRIT PETITION NO. 11667 OF 2016

THE PRESIDENT MARATHWADA PRADESH SCHEDULED TRIBE
VIMUKTA JATI AND BACKWARD CLASS

VERSUS

VIJAYA GOVINDRAO NANDEDKAR AND ANOTHER

...

Advocate for Petitioner : Shri Mukhedkar Amit A.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 25th November, 2016

Per Court:

1 The Petitioner is aggrieved by the order dated 15.09.2016 delivered by the School Tribunal, Latur by which an application Exhibit 24 filed by the Petitioner/ Management in Appeal No.53/2014 has been rejected.

2 The Petitioner/ Management submits that Respondent No.1/ Employee was earlier the Headmistress of the School conducted by the Petitioner/ Management. She was subjected to the departmental enquiry under the MEPS Act and Rules. By way of punishment, she was dismissed from service on 11.08.2014. She preferred Appeal No.53/2014 for challenging her dismissal.

3 The Petitioner submits that another person was appointed in place of the original Appellant as the Headmaster of the School. The Headmaster is necessary party to the proceedings and in the absence of whom, the appeal would suffer from non joinder of necessary party and would deserve rejection. The Petitioner, therefore, moved an application Exhibit-24 praying for the dismissal of the appeal on the ground of maintainability since the appeal suffered from non joinder of necessary party. Grievance is that the said application has been rejected.

4 I have considered the submissions of the learned Advocate for the Petitioner and have gone through the grounds set out below paragraph 6 in the petition.

5 It is settled law that the master of the proceedings has to decide whether, he stands the risk of dismissal of his proceedings on account of non joinder of parties and as to whether, the appeal suffers on account of non joinder of parties. Similarly, a subsequent appointee in place of the person who is dismissed and during the pendency of the litigation, is always subject to the result of the litigation because the right of the subsequent appointee is not crystallized until the rights of the claimant are fully extinguished.

6 In the light of the above, the impugned order of the School Tribunal is neither perverse nor erroneous. This Writ Petition being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)