

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10477 OF 2016
(Dr.Zakir Husain Education Society, Atakali Vs.Maimunabegum d/o
Shaikh Ahmed and others)

Mr.Vivek J.Dhage, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 16/11/2016

PER COURT :

1. The petitioner is aggrieved by the judgment of the School Tribunal dated 25/08/2016 by which the petitioner is directed to reinstate respondent No.1 in employment and conduct an enquiry as regards the allegations against her that she has produced a forged OBC certificate for securing employment.

2. Mr.Dhage, learned Advocate for the petitioner has strenuously criticized the impugned judgment. He has referred to the communication from respondent No.1 dated 25/04/2013 whereby she has categorically declared that she has not obtained employment on the basis of a forged caste certificate and that she has never submitted the certificate which is referred to by the petitioner as being a forged document.

3. I find from the appointment order that respondent No.1 was never appointed on a post reserved for the OBC. The appointment order dated 02/05/2006 pursuant to a Resolution No.7/2006 passed by the petitioner/Management indicates that the respondent/employee was appointed on a post which was not reserved for any category. Reliance is placed on the approval order to indicate that the appointment of respondent No.1 was approved against the OBC category.

4. The Tribunal, while considering the said aspect, has taken into account the fact that the appointment of the respondent/employee from the Open Category could not have been brought under a reservation through the approval, which was granted by the authorities on a proposal sent by the Management. This would indicate that the Management has surreptitiously modified the appointment of the respondent/employee (behind her back) and has forwarded the proposal for approval to a post reserved for the OBC. Since this was impermissible and since the petitioner has dismissed respondent No.1 by passing a stigmatic order without conducting any enquiry, the Tribunal has rightly directed the petitioner to conduct an enquiry pursuant to the charges levelled, in the event the Management presses the said charge.

5. In the light of the above, I do not find that the impugned judgment of the Tribunal could be termed as being perverse or erroneous or likely to cause gross injustice (Syed Yakoob Vs.K.S.Radhakrishnan and others, reported at AIR 1964 SC 477 and Surya Dev Rai Vs. Ram Chander Rai, reported at 2003(6) SCC 682).

6. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)