

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1632 OF 2016

SHAIKH ABDUL QUAIYYAM ABDUL SAMAD
VERSUS
AL SHABAB EDUCATION SOCIETY AND ORS

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Advocate for Petitioner : Shri Jagtap A.B. h/f Shri Sapkal V.D.

Respondents 1 & 2 : Served

Advocate for Respondents 3 & 4 : Shri Brahme Shailesh P.

Advocate for Respondent 5 : Shri Pawar Rahul S.

AGP for Respondent 6 : Shri Kutti P.N.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: October 07, 2016

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PER COURT :-

1. The petitioner is aggrieved by the judgment dated 19.9.2015 delivered by the School Tribunal, by which, Appeal No. 8 of 2012, filed by the petitioner has been dismissed primarily on the ground that the appointment order issued to the petitioner was not signed by the competent authority empowered to issue such an order and the procedure for selection of the petitioner was not in accordance with law.

2. The petitioner submits that an advertisement was published in a Weekly by name, 'Miyar-E-Zindagi' from Malegaon. The institution which is said to have published the advertisement is situated at Dhule. Appointment order dated 3.7.2009 was issued by the President of the Secretary, who has himself signed a resolution of the

same date. Learned Advocate for the petitioner strenuously submits that these facts would indicate that the process of selection was proper and the petitioner was appointed after an advertisement was published.

3. It is further submitted that the petitioner was appointed on probation as an Assistant Teacher with a monthly consolidated pay of Rs.4,500/-. His termination order dated 30.3.2011 has been signed by a different President of the institution and the same is unsustainable because the petitioner's performance was held to be unsatisfactory and it was stated that he was not teaching students properly.

4. Learned Advocate further submits that he had the requisite qualification of S.S.C., D.Ed. as per the advertisement and he was imparting education to the I and II standards students in the primary school at Dhule. His performance appraisal was not done and he was not intimated by the management that his performance is not satisfactory or that he needs to improve his performance.

5. Shri Brahme, learned Advocate appearing on behalf of respondent Nos.3 and 4, who are the Head-master and another teacher, submits that a fictitious advertisement has been placed on record by the petitioner. He indicates from page Nos.90 and 94 of the petition paper book, which are copies of the 2nd June, 2009

Edition of 'Miyar-E-Zindagi' weekly. He submits that the original copy of the weekly was not produced by the petitioner before the Tribunal. Nevertheless the copy placed on record indicates that the portion of the advertisement is superimposed on a news item and a Photostat copy of the same has been taken so as to falsely project that the said advertisement was published in the said weekly. He, therefore, contends that the petitioner has attempted to play a fraud on the School Tribunal as well as this Court as no advertisement was published.

6. He then points out that there is a dispute in the management and one person claiming to be the President of the institution has signed the resolution and the appointment order of the same date 3.7.2009 and appointed the petitioner. After these aspects were noticed by the management, which occupied the position of office bearers of the society, the notice for termination was issued and the petitioner was terminated.

7. Despite service of court notice, respondent Nos. 1 and 2, which is the management, have not appeared in the matter.

8. I have considered the submissions of the learned Advocates and have gone through the petition paper book with their assistance.

9. The petitioner who claims to have applied for a post on which he claims to have been appointed, is unable to produce the advertisement on the basis of which he had applied for the post. I also find that the said advertisement is said to be published in a weekly, which is unheard of. Moreover the said weekly is published from Malegaon, which is a taluka under district Nasik, whereas, the school is situated at Dhule and no such advertisement was published at Dhule. It appears that the appointment of the petitioner has been orchestrated by the petitioner and the person who claimed to be the President of the institution and signed on the advertisement, the resolution and the appointment order. Respondent No. 3 / Head Mistress of the school submits that no such advertisement was published.

10. Considering the above, I do not find that the impugned judgment of the School Tribunal could be termed as perverse or erroneous. The manner in which the petitioner has orchestrated his appointment is deprecable.

11. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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