

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11876 OF 2016

(Mohd.Iliyas S/o Mohd. Nawaz Vs.Kadar Shikshan Urdu Sanstha and others)

Mr.M.C.Syed, Advocate for the petitioner.

Mr.S.N.Kendre, Advocate for the respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 01/12/2016

PER COURT :

1. The petitioner is aggrieved by the order dated 06/10/2016, by which application Exh.5 filed by the petitioner seeking a stay to his dismissal and interim relief in the nature of reinstatement during the pendency of Appeal No.1/2016, has been rejected.

2. Mr.Syed, learned Advocate for the petitioner strenuously criticized the impugned order. He submits that his case primarily is based on two factors, which would render the dismissal unsustainable. Firstly, that being a permanent employee who has worked for 15 years, a stigmatic dismissal without enquiry is unsustainable in law. Secondly, that by the order of dismissal dated 12/12/2015, the petitioner has been dismissed with retrospective effect from 28/08/2015. Learned AGP has supported the impugned order.

3. Though prima facie, it appears that the petitioner has a strong case on merits, keeping in view the fact that a stigmatic dismissal without conducting an enquiry is unsustainable and so is any

termination with retrospective effect in the light of the judgment of the learned Division Bench of this Court in the matter of Aasaram Raibhah Dhage Vs. Executive Engineer, 1989 (2) CLR 331, the fact remains that the petitioner appears to have admitted his guilt by his communication dated 01/09/2015 and 05/09/2015. Charges of sexual harassment having been levelled upon him, would dis entitle him to an interim relief in the nature of staying his dismissal order and granting reinstatement.

4. Considering the fact that a short issue is involved, I find it appropriate to direct the School Tribunal to decide Appeal No.1/2016 as expeditiously as possible and preferably on or before 30/06/2017, without being influenced by any observations set out in this order. Considering the order that I have passed, I did not deem it proper to issue notice to respondent Nos. 1 and 2. This petition is, therefore, disposed off.

5 Needless to state, all contentions of the litigating sides are kept open.

(RAVINDRA V. GHUGE, J.)