

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.126 OF 2012

Shikshan Prasarak Mandal Petitioner

Vs.

Ramesh Bhimrao Narayankar & Ors. Respondents

Mr. N.V. Bandiwadekar a/w Mr. Sagar Mane, Advocate for the
Petitioner.

Mr. Vishwanath Talkute a/w Mr. R.R. Nair, for Respondent no.1.
Mr. Sandip Babar, AGP for Respondents no. 2 to 4.

Coram : Smt. R.P. SondurBaldota, J.

Date : 26th October, 2016

P.C.

1 Mr. Bandiwadekar, the learned counsel appearing for the petitioner points out that the question referred to the Full Bench by the order dtd. 30th March, 2012 has been answered. The Full Bench by it's judgment and order dtd. 10th March, 2016 has held that a Teacher or Headmaster on whom State/National Award has been conferred, and who is to be chosen as a third member in enquiry committee constituted under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules 1981 can be a retired Teacher or Headmaster.

In view of the decision, respondent no.1 has filed affidavit dtd.21st October, 2016 with a specific statement that in the light of the order of the Full Bench, issues no. 1 and 2 decided by the School Tribunal are rendered otios and un-survivable and therefore the Tribunal is now required to consider remaining issues no. 3 and 4 on merits of the claim of respondent no.1.

2 Mr. Talkute, the learned advocate for respondent no.1 however today seeks to raise one more objection to the constitution of the enquiry committee stating that the representative of the management on the enquiry committee is not one of the trustees and as such cannot be a member of the enquiry committee. This objection had not been raised earlier at any point of time. In any case, the documents produced by Mr. Bandiwadekar show that Mr. Daulat Ganpatrao Hinge, the Member of the enquiry committee was co-opted as a trustee in the meeting dtd. 26th January, 2009 to fill up the vacancy occasioned by death of one of the trustees, Bhaskar Vitthal Vadekar on 19th July, 2006. The Change Report in respect thereof has been filed and is pending for consideration. The objection therefore is without substance.

3 In the above circumstances, the petition is allowed. The order impugned in the petition is set aside and the appeal is remanded to the School Tribunal for consideration on merits of issues no. 3 and 4 as framed.

4 Parties to appear before the School Tribunal on 15th November, 2016. The School Tribunal shall endeavour to dispose off the appeal as early as possible.

5 Parties to act on authenticated copy of this order.

(Smt. R.P. SondurBaldota, J)