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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.10335 OF 2016

President, Donde Shikshan Prasarak Mandal & Ors.	...Petitioners
V/s. Nandkumar P. Gargote & Ors.	...Respondents

Mr.Vilas Tapkar for the Petitioners.
Mr.V.K. Bodhare i/b Mr.A.M. Joshi for the Respondent No.1.
Mr.A.R. Metkari, A.G.P. For the Sate – Respondent No.3.

CORAM : R.D. DHANUKA, J.
DATE : 11TH JULY, 2016.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 3rd March, 2016 passed by the learned Presiding Officer, School Tribunal, Pune thereby allowing the appeal filed by the respondent no.1 and declaring the the impugned termination order dated 14th January, 014 as void and directing the management to reinstate the respondent no.1 with all consequential benefits and full back wages.

2. There were two main charges against the respondent no.1 in the charge sheet issued by the management i.e. (1) in view of the news of arrest of the respondent no.1 having been published in the

daily newspapers Pudhari and Sakal, the petitioner management was defamed in the eyes of public and (2) the respondent no.1 did not carry out the duties of purchasing sports material properly.

3. The enquiry committee was constituted by the petitioner management. The respondent no.1 participated in the enquiry. Insofar as the charge that the petitioner was defamed in view of the news of arrest of the respondent no.1 having been published in the daily newspapers is concerned, a perusal of the order passed by the school tribunal indicates that a finding is recorded by the school tribunal that in view of the dispute between the respondent no.1 with his brother, even if the respondent no.1 was arrested, that could not have been the ground of defamation, no termination order based on such news could have been passed by the petitioner against the respondent no.1. It is held by the school tribunal that to prove such charges, the management had not examined any witnesses and thus maligning the image of the management was not proved.

4. Insofar as the charge that the respondent no.1 did not carry out the duties of purchasing the sports material is concerned, a perusal of the order passed by the school tribunal indicates that after considering the evidence before the enquiry committee, the school tribunal rendered a finding that the said charge was not proved by the management by leading the evidence of any witness.

5. A perusal of the order passed by the school tribunal further indicates that though one of the enquiry officer was not present, his signature was taken in the report.

6. A perusal of the order indicates that the school tribunal has considered documentary as well as oral evidence and has rightly come to the conclusion that the enquiry was not properly conducted by the petitioner. None of the charges levelled against the respondent no.1 were proved. In these circumstances, the school tribunal has rightly set aside the order of termination dated 14th January, 2014 and has directed the management to reinstate the respondent no.1 with all consequential benefits and full back wages. In view of the findings of fact recorded by the school tribunal being not perverse, the impugned order cannot be interfered with by this Court under Article 227 of the Constitution of India. None of the charges levelled against the respondent no.1 by the petitioner management were proved. Be that as it may, the charges levelled against the respondent no.1 were totally vague and were not sustainable.

7. In my view, the petition is devoid of merits and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)