

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6154 OF 2016**

Mr. Anil Ramchandra Waghmare .. Petitioner
Vs.
The President/Secretary
Shiv Shikshan Sanstha & Ors. .. Respondents

Mr. Vinod Tayade, Advocate for the petitioner.
Mr. R.S.Apte, Senior Advocate i/by Sagar Ambedkar, Advocates for the
respondent nos. 1 and 2.
Mr. A.R.Metkari, AGP for R.No.3.

CORAM : R.D. DHANUKA, J.
DATE : 25th July 2016

P.C.

. By this petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner has impugned the order and judgment dated 21.11.2013 passed by the Presiding Officer, School Tribunal, Mumbai dismissing the appeal filed by the Petitioner under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules, 1981. There is delay of more than one year in filing this Petition. The learned counsel for the Petitioner has tendered affidavit dated 25.7.2016 by which the Petitioner has made an attempt to explain the delay in filing the writ petition. Perusal of the affidavit filed by the Petitioner indicates that the Petitioner has not explained the delay of more than one year in filing this petition satisfactorily. Be that as it may, I have heard learned counsel appearing for the Petitioner and Mr. Apte the learned Senior Counsel appearing for the Management on merits.

2 It is not in dispute that there were serious allegations of moral turpitude made by the management based on the complaints received from some of the girl students against the Petitioner. An enquiry was initiated against the Petitioner based on such complaints received by the Management. After completion of enquiry and considering the report submitted by the Enquiry Committee, services of the Petitioner were terminated on the ground that charges against the Petitioner were proved.

3 The learned counsel for the Petitioner submits that enquiry report submitted by the Enquiry Committee was totally perverse and thus, School Tribunal ought to have interfered with the perverse finding rendered by the Enquiry Committee. He submits that various boy students had also supported the case of the Petitioner before the Enquiry Committee, which was not considered by the Enquiry Committee.

4 Mr. Apte, the learned Senior Counsel for the Management invited my attention to the charge-sheet issued against the Petitioner and also finding recorded by the School Tribunal. He submits that there are no complaints made by the Petitioner that the enquiry was not properly conducted by the Enquiry Committee. He submits that the Petitioner had participated before the Enquiry Committee and was given full opportunity to examine the witnesses and also to cross-examine the witnesses examined by the Management. He submits that the School Tribunal has rendered findings, which cannot be interfered with by this Court.

5 Perusal of the charge-sheet issued by the Management indicates that there were very serious charges of molestation and moral turpitude against the Petitioner. Students who made complaints against

the Petitioner were also examined as witnesses before the Enquiry Committee. The Petitioner also examined himself and various witnesses. The Enquiry Committee after considering the entire evidence on record, rendered finding that the charges of moral turpitude and molestation were proved against the Petitioner.

6 Perusal of the record indicates that the evidence was recorded by the Enquiry Committee at great length and recommendation was based on the said oral and documentary evidence led by both the parties. Charges against the Petitioner were proved. Perusal of the order and judgment of the School Tribunal clearly indicates that the School Tribunal has independently considered the oral and documentary evidence led by both the parties and has rendered finding that charges against the Petitioner were very serious and were proved before the Enquiry Committee. In my view, this finding recorded by the School Tribunal is based on the evidence led by both the Parties. The School Tribunal has rightly tendered a finding that the enquiry conducted against the Petitioner is conducted as per the principles contemplated under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules, 1981 and the punishment of termination awarded to the Petitioner was not disproportionate to the charges proved. In my view, findings recorded by the School Tribunal independently are not perverse and thus, cannot be interfered with by this Court under Articles 226 and 227 of the Constitution of India. The Petition is devoid of merits and is, accordingly, dismissed. No order as to costs.

R.D. DHANUKA, J.