

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

WRIT PETITION NO.8122 OF 2015

Bhairavnath M. Pandey .. Petitioner
Vs.
Gyanodaya Vidyalaya Trust & Ors. .. Respondents

Mr.Rajesh Jadhav for the petitioner.
Mr.Arvind Kothari for the respondent nos.1 & 2.
Mr.A.B. Metkari, AGP for the respondent no.3.

CORAM : R.D. DHANUKA, J.
DATE : 20th June 2016

P.C.

. By this petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has impugned the order dated 18th December 2014 passed by the Presiding Officer, School Tribunal dismissing the appeal filed by the petitioner (appellant) under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

2. It is the case of the petitioner that he is a qualified teacher and is holder of the Master of Arts degree (M.A.) from Gorakhpur University and Bachelor of Education (B.Ed.) from Sampurnanand Sanskrit University and obtained the said degree in the year 1985. It is the case of the petitioner that he was appointed on a clear and permanent vacancy and had been given permanent approval by the respondent no1. w.e.f. 13th June 1990.

3. The services of the petitioner were, however, terminated on 8th February 2012 with effect from 4th February 2012 on the ground that B.Ed. Degree submitted by the petitioner to the management for the purpose of getting an employment was bogus and forged. The Education Officer had also directed that a police complaint be lodged against the petitioner. Accordingly an F.I.R. was lodged against the petitioner on 11th February 2012 punishable under Sections 464, 467, 468, 471 and 420 of the Indian Penal Code.

4. The petitioner being aggrieved by the said order of termination, preferred an appeal bearing No.7 of 2012 before the School Tribunal. The School Tribunal by an order dated 12th December 2012 allowed the said appeal and was pleased to set aside the order dated 6th February 2012 and directed the management to reinstate the petitioner with continuity of service but without back wages and also directed to conduct a departmental enquiry against him by following due process of law. The petitioner was suspended by the management vide letter dated 1st March 2013 during the pendency of the said departmental enquiry. It is not in dispute that the management, thereafter, conducted the enquiry against the petitioner in respect of the said allegation of submitting bogus and forged degree of B.Ed. by the petitioner. The petitioner had participated in the said enquiry proceedings and also cross-examined the witness examined by the management. The two members of the enquiry committee in the report dated 27th May 2013 held the petitioner guilty of commission of misconduct under Section 28(5)(a) and 28(5)(b) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The third member,

however, exonerated the petitioner. Based on the said enquiry report, the management terminated the services of the petitioner vide termination order dated 30th May 2013. The said order of termination was impugned by the petitioner before the School Tribunal by filing an appeal bearing No.27 of 2013.

5. Learned counsel appearing for the petitioner submits that the criminal proceeding pursuant to the complaint filed by the respondent no.3 is still pending. The School Tribunal has not considered all the submissions made by the petitioner and has rendered various incorrect findings.

6. Mr.Kothari, learned counsel appearing for the management submits that the petitioner had appeared before the enquiry committee and had cross-examined the witnesses examined by the management. The enquiry committee after considering all the documents and oral evidence has rightly held that that the petitioner had committed misconduct under Section 28(5)(a) and 28(5)(b) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and submitted forged and bogus degree. He submits that the university from which such degree was alleged to have been obtained by the petitioner had informed the Education Inspector and also the police that such degree was not issued by the said university in favour of the petitioner.

7. A perusal of the order passed by the School Tribunal indicates that the School Tribunal has considered all the relevant aspects including the enquiry report and evidence led by both the parties before

the enquiry committee and has rendered a finding in affirmative that the enquiry committee had followed the legal and proper procedure and commission awarded to the petitioner was not disproportionate to the charges proved.

8. The finding of fact is also based on the information provided by the Sampurnanand Sanskrit Vishwavidyalay, Varanasi to the effect that no such degree was issued to the petitioner. In my view, the School Tribunal has rightly considered all the evidence and passed a reasoned order. The findings of facts rendered by the School Tribunal are not perverse and thus this Court cannot interfere with such findings of facts. Petition is devoid of merits and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.