

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9258 OF 2015**

**Administrative Officer
Primary Education Board
Municipal Corporation, Kolhapur
Vs.
Chandrakant Shrirang Nalawade**

..Petitioner

..Respondent

**Mr. Tanaji Mhatugade for the Petitioner
Mr. Chetan Domre for the Respondent**

**CORAM : R. M. SAVANT, J.
DATE : 30th SEPTEMBER, 2016**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 7-3-2015 passed by the Learned Member of the Industrial Court by which order Complaint ULP No.6 of 2013 filed by the Respondent came to be allowed and a declaration came to be issued that the Petitioner who is the Respondent in the said Complaint has committed unfair labour practice under Item Nos.3, 5 and 9 of Schedule IV of the MRTU and PULP Act 1971. It was further held that the order dated 3-1-2013 relieving the Respondent was illegal and therefore set aside. A further direction came to be issued that the Respondent should be allowed to join in the post originally held by him.

2 It is an undisputed position that the Respondent was promoted to the post of Naik from the post of Sevak in the Head Office of the Municipal

School Board. By order dated 3-1-2013 the Respondent came to be shifted to the Maharashtra Vidyalaya Kasabavada which is a school under the Board. The cause for filing the Complaint ULP No.6 of 213 by the Respondent was that by posting him to the said school he was made to work as Sevak as there was no post of Naik available in the said school. The Respondent therefore alleged that the Petitioner had committed unfair labour practice by issuing the said order dated 3-1-2013. The parties led evidence, on behalf of the Respondent, the attendance sheet of the year January 2013 to January 2014 was produced by in support of his case that there is no post of Naik available in the said school. The Petitioner was also not in a position to point out that any such post of Naik was available in the said school. In the said circumstances, the Learned Member of the Industrial Court held that the allegation of the Respondent that he is made to work as Sevak was sustained. The Learned Member of the Industrial Court accordingly allowed the Complaint and issued the declaration and directed the Petitioner to reinstate the Respondent in the post originally held by him in the Administrative Office of the Municipal School Board i.e. of "Naik"

3 Having regard to the material which has come on record, the findings of the Learned Member of the Industrial Court that there is no post of Nail available in the school in question cannot be faulted with. If that be so, the Respondent cannot be directed to work as a Sevak which is a lower post

than that of Naik. Therefore the findings recorded by the Learned Member of the Industrial Court cannot be found fault with. The reason put forth by the Petitioner that the posting of the Respondent is for administrative reasons cannot be accepted in view of the fact that in March 2016 already a Sevak has been posted in the said school.

4 In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]