

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

WRIT PETITION NO.9363 OF 2015

Spring Field High School and Ors. .. Petitioners
Vs.
Mrs. Lalitha Hariharan & Ors. .. Respondents

Mr. Gangadhar Sabnis with Mr. Ravindra Dhond, Advocates for the petitioners.

Mr. H. Kumar Vaidyanathan with Ms. G. Geetha, Advocates for the respondent no.1.

Ms. M.S.Bane, 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 Petitioners have impugned the order dated 8.7.2015 passed by the learned Presiding Officer of the School Tribunal, Mumbai allowing appeal filed by the Respondent No.1 setting aside the order of termination dated 30.4.2014 and directing Petitioners herein to reinstate the Respondent No.1 on the post of Principal with 75% back wages and continuity of service.

2 Some of the relevant facts for the purpose of deciding this petition are as under:

The Respondent No.1 was appointed as Principal in the Petitioner No.1 School in the year 1999. It is the case of the Petitioners that since the Respondent No.1 started acting against the interest of the institution, the Petitioners decided to terminate her services. However, at

the instance of the Respondent No.1, the Petitioners decided not to hold any enquiry and issued a letter of termination on 30.4.2014 which was voluntarily and willingly accepted by the Respondent No.1 with notice amount of Rs.1,80,000/-.

3 The learned counsel appearing for the Petitioners invited my attention to the letter of termination issued by the Petitioners, endorsement made by the Respondent No.1 thereon, separate letter dated 30.4.2014 addressed by the Respondent No.1 to the Petitioner accepting termination and submitted that the Respondent No.1 had deposited the said cheque of Rs.1,80,000/- issued by the Petitioners. It is submitted that the Respondent No.1 having accepted the letter of termination voluntarily and having deposited aforesaid cheque in her bank account, the Respondent No.1 was not aggrieved by the letter of termination and thus appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Rules, 1981 (In short '**Said Act**') itself was not maintainable. He submits that since the Respondent No.1 had accepted the order of termination voluntarily, the question of conducting any enquiry against the Respondent No.1 did not arise. He submits that termination letter was not stigmatic and thus, the School Tribunal could not have rendered a finding that the termination was illegal for want of an enquiry under the provision of the said Act.

4 The learned counsel appearing for the Respondent No.1 on the other hand submits that during her tenure of services with the Petitioners from 1999 till 2014, the work of the Respondent No.1 was

throughout appreciated. There was not even a single memo addressed by the Petitioners to the Respondent No.1 during her tenure of 15 years of service alleging any financial irregularity or making any complaint about her work. My attention is invited to some of the certificates of appreciation annexed by the Petitioners themselves in the Writ Petition. He invited my attention to the letter dated 7.5.2014 addressed by the Respondent No.1 to the Management placing on record the circumstances in which she was forced to sign the said letter of termination. He submits that the letter dated 30.4.2014, which was alleged to have been signed by the Respondent No.1 was also letter prepared and typed by the Petitioners. She was forced to sign the said typed letter and was not allowed to leave cabin of the management till her signature was obtained on the said letter. On the said letter, the Respondent No.1 has made it clear that without prejudice to her rights and contentions, she had deposited the said cheque by reserving her right to challenge the said termination before the appropriate Court of law. He submits that there was no reply to the said letter addressed by the Respondent No.1. He submits that the Respondent No.1 thereafter filed an appeal under Section 9 of the said Act before the School Tribunal. It is submitted that the School Tribunal has rightly considered all these issues and facts and has rendered finding of fact which cannot be interfered with by this Court under Articles 226 and 227 of the Constitution of India.

5 Perusal of the record indicates that it is not case of the Petitioners that since 1999 till 2014, there was any memo or letter issued by the Petitioners alleging any financial irregularities or making any complaint of unsatisfactory work by the Respondent No.1. Perusal of the

record further indicates that there is no denial of the allegations made by the Respondent No.1 in her letter dated 30.4.2014 placing on record the circumstances in which her resignation was obtained by the Petitioners. There was no reply to the said letter dated 7.5.2014 addressed by the Respondent No.1.

6 In so far as submission of the learned counsel for the Petitioners that appeal of the Respondent No.1 was not maintainable on the ground that she was not aggrieved by the order of termination passed by the Petitioners is concerned, in my view, there is no merit in this submission of the learned counsel for the Petitioners. The case of the Respondent No.1 before the School Tribunal and also in her letter dated 7.5.2014 was that her signature on the letter of termination/resignation dated 30.4.2014 was taken by coercion and duress and the same was not issued voluntarily. In my view, the Respondent No.1 was thus aggrieved by the said letter of termination dated 30.4.2014 and thus, appeal under Section 9 of the said Act filed by the Respondent No.1 was maintainable and was correctly entertained by the School Tribunal.

7 A perusal of the record further indicates that work of the Respondent No.1 was all throughout appreciated by the Petitioners by issuing various certificates of appreciation and I am thus, not inclined to accept the submissions of the learned counsel for the Petitioners that the enquiry was not conducted against the Respondent No.1 to avoid any stigma on the Respondent No.1. If according to the Petitioners, there were any serious irregularities in the working of the Respondent No.1, the Petitioners could have conducted enquiry against the Respondent No.1 at

the appropriate time.

8 Perusal of the order passed by the School Tribunal clearly indicates that all the submissions and the documentary evidence have been considered by the School Tribunal and it has rightly rendered finding of fact that the termination effected by the Petitioners is illegal. No infirmity can be found with the impugned order passed by the School Tribunal. The Petition is devoid of merits and the same is, accordingly, dismissed. No order as to costs.

9 The Respondent No.1 would be at liberty to withdraw the sum of Rs.2,84,192/- out of the amount deposited by the Petitioners in this Court forthwith. It is also made clear that the Respondent No.1 would be at liberty to apply for execution of the order passed by the School Tribunal. The balance amount deposited by the Petitioners shall be invested by the Registrar of this Court in a fixed deposit of a nationalized bank initially for a period of one year and for like period after obtaining further orders from this Court. Executing Court shall decide the amount of back wages payable to the Respondent No.1 within a period of six months from today. If any further amount is found due and payable by the Executing Court, the Executing Court shall permit Respondent No.1 to withdraw the balance amount, which is lying deposited with this Court with accrued interest thereon.

9. Parties as well as office to act on an authenticated copy of this order.

R.D. DHANUKA, J.