

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

WRIT PETITION (STAMP) NO.27959 OF 2016

Rashtriya Chemicals & Fertilisers Ltd.

... Petitioner

vs.

Bhushan Uttamrao Tayade & Ors.

... Respondents

Mr. Abhinav Chandrachud a/w Mr. Ajay Khaire i/b M/s. The Law Point
for the Petitioner.

Mr. A.R. Metkari, AGP for the Respondent/State.

Coram : **A.A.Sayed, J.**

Date : 7 December 2016

P.C. :

1 The Petitioner invoking Articles 226 and 227 of the Constitution has impugned the order dated 21 July 2016 of the School Tribunal, Pune, whereby the School Tribunal has answered the preliminary issue in favour of the Respondent teacher and held that the Appeal filed by the Respondent teacher under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, is maintainable and the Tribunal has jurisdiction to entertain the Appeal.

2 The Respondent teacher was appointed on 15 June 1992. According to the Respondent teacher, he had tendered his resignation from the post of Assistant Teacher on 17 June 2013 and withdrew his resignation on the same day. The further case of the Respondent teacher in the Appeal is that it was an involuntary and forced

resignation which was allegedly accepted. The School Tribunal concluded that the case of the Respondent teacher cannot be thrown out at this juncture. In the impugned order it is stated that the parties are required to be given an opportunity to produce all the relevant documentary evidence and only then the issue can be considered whether the resignation was accepted by the Management within the meaning of Section 7 r/w Rule 40 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Rules thereunder.

3. In my view, no fault can be found with the impugned order to cause interference in the exercise of writ jurisdiction of this Court. The issue whether the resignation was voluntary or involuntary and/or accepted by the Management in accordance with law, can be gone into only after examining and appreciating the evidence on record. The Petitioner cannot be shown the door at this stage inasmuch as if the Court comes to the conclusion that the resignation was involuntary/forced and the Petitioner was prevented from performing his duties, the case of the Petitioner, may well fall in the expression 'otherwise termination' appearing in section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Appeal would be maintainable. Thus, by keeping open all the issues, including the issue whether the resignation of the Respondent teacher

was voluntary or involuntary/forced, the Petition is dismissed in limine.

There shall be no order as to costs.

(A.A.Sayed, J.)

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