

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

WRIT PETITION NO.13536 OF 2016

Mr. Ravsaheb Pandurang Hipparkar ... Petitioner

vs.

The State of Maharashtra & Ors. ... Respondents

Mr. Surel Shah with Mr. Ajit Kenjale with Mr. Sohil Gulabani i/b
Mr. Akshay V. Kamble for the Petitioner.
Mr. Anant Vadgaonkar for the Respondent No.4.

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

Date : 7 December 2016

P.C. :

1 The Petitioner by this Petition has challenged the interlocutory order dated 3 December 2016 passed by the School Tribunal, Solapur in an Application (below Exhibit 58) filed by the Petitioner seeking adjournment of 20 days. The impugned order reads as follows:

“Perused the application and say filed by the appellant. Heard both the respective advocate for the parties.

The matter is time bound by Hon'ble Apex Court. No good ground shown by respondent to adjourn the matter. It dead line is 8th of December, 2016. So I do not found any substance in the reason mentioned in the application hence it is rejected in toto.”

2 In the earlier round of litigation, this Court by order dated 8 August 2016 had upheld the order of reinstatement of the Respondent

teacher and remanded the matter to the School Tribunal to redetermine the issue of back-wages. The School Tribunal was directed to make an endeavour to decide the matter within four months from 8 August 2016.

3 It is the case of the Petitioner that after the passing of the order dated 8 August 2016 by this Court, notices were issued by the School Tribunal to the Petitioner on 30 August 2016. The date before the School Tribunal was fixed on 9 September 2016. On 3 December 2016, the Application (below Exhibit 58) was filed by the Petitioner seeking time of 20 days on the ground that there were certain documents which the Petitioner was to receive and intended to rely upon to show that the Respondent teacher was gainfully employed. The said Application was opposed by the Respondent teacher and the impugned order came to be passed on the same day i.e. 3 December 2016. The Court is informed that the matter is kept for pronouncement of judgment today.

4 Learned Counsel for the Petitioner states that the Petitioner will be able to file the documents along with Affidavit of the Petitioner on or before 15 December 2016, if this Petition is allowed. He submits that the said documents are crucial as the said documents would show that the Respondent teacher was gainfully employed and would therefore not be entitled to back-wages. He pointed out that for sometime there

was no Presiding Officer of the School Tribunal and the new Presiding Officer has taken charge on 2 November 2016 and that the Respondent teacher had filed his Affidavit only on 19 November 2016.

5 Learned Counsel for the Respondent teacher has opposed the Petition on the ground that despite opportunities being granted and the Petitioner being aware that the matter was required to be disposed of by 8 December 2016, no Affidavit or documents have been filed earlier and no indulgence ought to be shown to the Petitioner and the Tribunal has rightly rejected the Application of the Petitioner. He submitted that the matter was adjourned on several dates viz. - 17 October 2016, 2 November 2016, 19 November 2016, 23 November 2016, 30 November 2016 and 3 December 2016.

6 Having heard the learned Counsel for the parties and on perusal of the record, in my view, an opportunity is required to be granted to the Petitioner to bring on record the documents as prayed subject to costs. It is noticed that the main reason why the School Tribunal has rejected the Application was because of the direction of this Court to the School Tribunal to make an endeavour to decide the matter within four months from 8 August 2016.

7 Considering the overall facts and circumstances of the case, in my opinion, the following order would meet the ends of justice:

ORDER

- i) The time granted by order dated 8 August 2016 of this Court to decide the matter is extended until 15 January 2017, subject to costs of Rs.25,000/- to be paid by the Petitioner to the Respondent No.4 teacher on or before 15 December 2016;
 - ii) The statement of the learned Counsel is recorded that the Affidavit of the Petitioner alongwith documents shall be filed before the School Tribunal on or before 15 December 2016;
 - iii) In the event the costs are not paid on or before 15 December 2016 or the Affidavit alongwith documents is not filed on or before 15 December 2016, the benefit of this order will not be available to the Petitioner and the School Tribunal will be free to pronounce judgment.
 - iv) The School Tribunal shall adjourn the matter to 15 December 2016. If costs are paid and the Affidavit alongwith documents is filed, the School Tribunal shall decide the matter after considering the material placed on record. The impugned order is set aside and the Application of the Petitioner shall stand allowed in terms above.
 - v) All contentions on merits are kept open.
8. The Petition is disposed of in the aforesaid terms.

(A.A.Sayed, J.)

k

5/5

903 wp 13536.16 as.doc

katkam