

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

902 WRIT PETITION NO. 267 OF 2016
WITH CA/2419/2017 IN WP/267/2016

MAHAJABEEN FATEMA ABDUL RAHMAN
VERSUS

ANJUMAN ISHAAT E TALEEM TRUST THROUGH ITS
SECRETARY GULAM MAHMOOD SEEMA NURSING H

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Advocate for Petitioner : Mr. A.S.Deshpande

AGP for Respondents 4 & 5 : Mr.A.R. Borulkar

Advocate for Respondent 1 : Mr.S.S. Kazi

Advocate for Respondents 2 & 3 : Mr. Rajendra
Deshmukh

Advocate for intervenor : Shri. N.L. Jadhav

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : March 3, 2017.

ORDER :

The petition is filed for quashing of the
Departmental Enquiry which is started by
respondent Nos. 1 and 2 against the petitioner.
Heard both the sides.

2. It is surprising that when the proceeding
is filed for quashing of enquiry proceeding, show
cause notice which is admittedly served on the
petitioner, is not produced in this Court. Only

due to submissions made, it can be said that the charge is there against the petitioner that after transfer from Khultabad School, she did not discharge the duty for the period of 17 months from June 2011 to October 2012, but she claimed and received salary in respect of that period. There is charge that she withdrew the salary in respect of the period from June 2011 to October 2012 in Maulana Azad School, Aurangabad when she actually did not discharge the duties there. Her husband was Secretary of the Institution in the past and the present Management wants to show that by misusing the said circumstance, she collected the salary and fraud is committed.

3. The learned counsel for petitioner took this Court through the provisions of Rule 36 with regard to the constitution of Enquiry Committee and submitted that the Enquiry Committee was not properly constituted and more members than the members of Enquiry Committee were sitting during

enquiry. The learned counsel submitted that when the period for enquiry was fixed, enquiry was not completed within that period. The learned counsel submitted that the authority had extended the period of enquiry. but then the authority also informed that due to the complaints of the petitioner, the enquiry cannot be proceeded ahead, but the enquiry was conducted further. The learned counsel submitted that the petitioner wanted to examine defence witnesses and she has also given list of witnesses, but she was not allowed to lead the defence evidence and she was not allowed to cross examine the witnesses.

4. It is already observed that the petitioner is avoiding to produce even the chargesheet and particulars of charge. Even if the record produced by the petitioner is considered as it is, it can be said that it is with regard to the procedure which was apparently followed by the Enquiry Committee. The submissions made show that

the enquiry is completed and the report of Enquiry Committee is served on the petitioner. When the report is served on the petitioner, she is expected to give explanation to the report, but instead of doing that she has rushed to this Court.

5. The Enquiry was started in the year 2013 and it can be said that the petitioner has done everything to stall the enquiry. She had approached this Court by filing Writ Petition No. 2149/2013. Though this Court had directed the employer to see that the Committee is reconstituted and *de-nova* enquiry is started, the relief claimed of quashing was refused. It can be said that again the same relief is claimed in this proceeding and again grievance is raised about constitution of the Committee for the enquiry. Everything involves factual aspect and as the report is also submitted by the Enquiry Committee, this defences, contentions could have been taken

and made for challenging the order, if any, made on the basis of that report. There is serious allegation of aforesaid nature and in view of the aforesaid circumstances, this Court holds that the petitioner is doing everything to see that the things are protracted. This Court sees no reason to quash the enquiry proceeding started against the petitioner. The period spent in this matter needs to be excluded for the procedural purpose in respect of enquiry.

6. In the result, the writ petition is dismissed. Civil Application filed for intervention is disposed of. The observations are for the present purpose only.

[SANGITRAO S. PATIL, J.] [T.V. NALAWADE, J.]

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