

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1786 OF 2000

Baliram S/o Sangappa Walakate

Petitioner

Versus

Om Narayan Shikshan Prasarak Mandal
Latur and others

Respondents

Mr.V.G. Sakolkar advocate for the petitioner
Mr. S.B. Munde h/f Mr. V.D.Gunale advocate for Respondent No.2
Mr. S.K. Tambe, AGP for Respondents No.4 & 5

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 5th July, 2017.)

PER COURT :-

1 The petitioner is aggrieved by the Judgment dated 8.7.1999 delivered by the School Tribunal, Aurangabad by which his appeal No.174 of 1997 has been dismissed.

2 This petition has been admitted by this Court on 4.12.2001 and interim relief was refused.

3 I have considered the strenuous submissions of Shri Sakolkar learned advocate for the petitioner, who has specifically drawn my attention to the 14 grounds for challenge raised in this petition and the impugned Judgment.

4 There is no dispute that the petitioner has acquired the qualification of B.A. B.P.Ed. He was working as a Head Master of the Jay Bhavani Vidyalaya, Bamni Tq. & Dist. Latur from 1.1.1991. He was subsequently terminated on 29.6.1993 along with two teachers and two peons after the school received 75% grants. He had approached the School Tribunal in Appeal No.107 of 1993 which was allowed on 20.10.1994. He was reinstated in service on 16.8.1995.

5 After the petitioner was terminated by a written order dated 13.7.1997, he preferred Appeal No.174 of 1997 before the School Tribunal, which has led to the passing of the impugned Judgment.

6 I have gone through the entire Memo of the Appeal filed by the petitioner before the School Tribunal. His specific contention is that, he was not issued with any charge sheet or show cause notice, no enquiry was conducted against him and yet, he has been terminated from service by mentioning that he has been held guilty of the charges leveled against him.

7 The record reveals that prior to the termination of the petitioner, an order of suspension dated 15.1.1997 was served upon him. The Education Officer under the MEPS Act and the Rules, had granted approval to such suspension. This aspect has

been suppressed by the petitioner before the Tribunal.

8 The respondent management produced the enquiry record before the Tribunal and on considering it, the Tribunal concluded that a charge sheet was served upon the petitioner. He did not participate in the enquiry, which was therefore, conducted exparte. Copy of the enquiry report was attempted to be served upon him and as he declined to accept it, a sort of a Panchanama was prepared by the management, recording his refusal.

9 It is strenuously contended by the petitioner that he had no knowledge about the enquiry. This contention seems to be unbelievable because, when the petitioner was placed under suspension, pending disciplinary proceedings, if no enquiry was conducted or a farce of conducting an enquiry was created, the petitioner could have either challenged his suspension or could have made representations to the management, questioning his suspension for more than seven months and could also have approached the Education Officer to put forth his grievance. The least that was expected was that, he should have mentioned in his Appeal before the Tribunal that he was suspended and thereafter no action was taken.

10 Even after the management took a stand before the Tribunal and which is explicit from the order of termination, which mentions that the entire enquiry was conducted, the petitioner could have moved an application for demanding the inquiry papers or could have sought amendment to the Appeal for specifically challenging the charge sheet and the proceedings of the enquiry and even the findings of the enquiry officer under Rule 36 and 37 of the MEPS Rules. Same has not been done.

11 In the above backdrop, the Tribunal, therefore, concluded that it was quite surprising that, the petitioner did not even whisper about the enquiry. The tribunal on perusal of the record concluded that refusal to accept notices and communications including the order of termination which was ultimately served upon him by RPAD, was established on the basis of the report. In my view, in the light of the Judgments of the Honourable Apex Court in the matter of **Bhaskar Laxman Jadhav versus Karmaveer Kakasaheb Wagh Education Society & others** (2013 AIR SC 523) and **Kishore Samrite versus State of Uttar Pradesh & others** (2013 2 SCC 398), the petitioner being guilty of suppression of facts, has dis-entitled himself from claiming any relief.

12 Notwithstanding the above, the enquiry papers and the enquiry report was before the Tribunal. His suspension pending enquiry was published in the Marathi daily 'Yashawant' on 2.2.1997. Yet, the petitioner has not taken appropriate steps. Even if he would have disclosed his suspension from duties as Head Master in the Appeal Memo before the Tribunal, it would have been possible to consider his challenge.

13 In the light of the above, this petition being devoid of merit is, therefore, dismissed. Rule is discharged.

14 I however, deem it proper to record that in the event any unpaid salary or legal dues are outstanding, the petitioner would be at liberty to seek such payment by resorting to an appropriate remedy as may be available in law.

(RAVINDRA V. GHUGE , J)