

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8326 OF 2016

1. Sharda Shikshan Prasarak Sanstha
At Post Fakrabad, Tq.Jamkhed,
Dist.Ahmednagar,
Through its Secretary,
 2. Shri Ankhiri Devi Vidyalaya, Fakrabad,
At Post Fakrabad, Tq.Jamkhed,
Dist.Ahmednagar,
Through its Head Master,
 3. Subhash Janardhan Mahajan,
Age-55 years, Occu-Service,
C/o Shri Chanappa Maharaj Vidyalaya,
Pimpalgaon Unda, Nanaj, Tq.Jamkhed,
Dist.Ahmednagar
- PETITIONERS

VERSUS

1. Laxmanrao s/o Bajirao Kale,
Age-58 years, Occu-Service,
R/o At Post Fakrabad, Tq.Jamkhed,
Dist.Ahmednagar,
 2. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
- RESPONDENTS

Mr.S.K.Shinde, Advocate for the petitioners.
Mr.D.Y.Bhide h/f Mr.S.D.Tawshikar, Advocate for respondent No.1.
Mr.N.T.Bhagat, AGP for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/01/2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner is aggrieved by the judgment of the School Tribunal dated 26/04/2016 by which Appeal No.70/2015 filed by respondent No.1 / appellant has been allowed and he has been appointed on the post of “Head Master” with consequential benefits.
3. I have heard the learned Advocates for the respective sides at length on 06/01/2017, 16/01/2017 and again today.
4. The grievance of the petitioners is that the impugned judgment is ex-parte. The defence of the petitioners was not considered. The appeal of the appellant was decided in 5 months in undue haste and hence the impugned judgment be quashed and set aside.
5. It is apparent that the petitioner/Institution is joined by the original respondent No.3 as petitioner No.3 in assailing the impugned judgment. Petitioner No.3 was appointed as the in charge “Head Master”.

6. Considering the above, this Court had called upon the petitioners to indicate as to what is the justification in not appointing the appellant on the post of Head Master and appointing petitioner No.3 in his place. It was specifically contended by the petitioners that in an enquiry conducted against an Assistant Teacher namely Mr.Garje, the appellant was held guilty. It is conceded that there is no dispute about respondent No.1 appellant being the Senior Most teacher in the said school and as per the MEPS Rules, 1981, he would have the first right to be the “Head Master” of the School.

7. The petitioners have contended that if the matter is remitted to the Tribunal for a re-hearing, considering that the Management though had appeared, had not filed its written statement, I called upon the petitioners to state as to what would be the grounds that they would canvass against the appeal filed by the appellant. It was specifically stated that as the appellant was held guilty of a misconduct, a delinquent employee should not be appointed as the Head Master. It was stated that this is the ground for denying the appellant the post of Head Master.

8. I find from the record that the enquiry that was initiated under

the MEPS Act, 1977 and the MEPS Rules, 1981, was with regard to the charge sheet served upon Mr.M.V.Garje. It is admitted by the petitioners that no charge sheet was issued to the appellant and no enquiry was conducted against him. Surprisingly, the petitioners have contended that in the enquiry conducted against Mr.M.V.Garje, the appellant Mr.Kale has been held guilty. When called upon to substantiate as to how could the appellant be held guilty in an enquiry conducted against another employee and without hearing the appellant, the petitioners canvassed that because the Management passed a resolution accepting the report against Mr.Garje, it has held the appellant Mr.Kale guilty since his name appears in the report.

9. To say the least, the petitioners have followed a procedure which is unknown to Service Law. Without serving a charge sheet and without conducting any enquiry against the appellant, he is held guilty in an enquiry conducted against Mr.Garje. When this was the only defence put forth for which the petitioners have sought a rehearing in the appeal, I do not find that any purpose would be served by remitting the appeal to the School Tribunal for a hearing on the above contention of the petitioners and cause further hardships to the appellant.

10. In the light of the above, I do not find that the impugned judgment of the School Tribunal could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)