IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10448 OF 2016

SHRI BHOLENATH ADIVASI SHIKSHAN PRASAK MANDAL
VERSUS
GAJANAN LAXMAN TUPTEWAR AND OTHERS
...
Advocate for Petitioners : Shri Jadhavar Santosh S.
Advocate for Respondent 1 : Shri Bilolikar U.B.
AGP for Respondents 3 & 4 : Shri Bhagat N.T.
...
CORAM : RAVINDRA V. GHUGE, J.
Dated: January 24, 2017
...

PER COURT:-

1. On 19.10.2016, I had recorded the submissions of the learned Advocates as under:-

> *"1. I have heard the learned advocates for the petitioner and respondent No. 1/Employee.*
>
> *2. The grievance of the petitioner is that the application raising objections as regards the jurisdiction of the School Tribunal, Latur, below application Exhibit No. 33, has been rejected.*
>
> *3. The thrust of the petitioner's submission is that the school, in which education is being imparted for standard I to VII is independent and unconnected with the school imparting education in standards VIII to X. If the two schools are said to be independent, the provisions of the Maharashtra Employees*

of Private Schools (Condition of Service) Regulation Act, 1977 would not be applicable to the petitioner and the Appeal No. 02/2014, filed by the respondent No. 1/Employee will be rendered untenable.

4. Shri Jadhavar desires to place on record certain documents in support of his case. Leave to file additional affidavit, with documents, is granted.

5. Respondent No. 3 shall file an affidavit-in-reply in the light of the above contentions and clarify as to whether the contention of the petitioner that the above said two schools are independent of each other or as to whether the standards I to X would fall, under the same school.

6. Stand over to 18/11/2016 for further consideration."

2. Considering the strenuous contention of the petitioner that there are two Head Masters in the school and as such, both the sections i.e. from the first standard to the seventh standard and eight standard to tenth standards should be considered as two independent schools, this Court has directed the Integrated Tribal Development Department to file an affidavit for taking a stand in the face of such submissions.

3. The Assistant Project Officer of respondent No.3 Department has filed an affidavit in reply dated 12.1.2017 and had annexed the

extract of some of the provisions of the Ashram School Code.

4. Shri Jadhavar strenuously submits that considering the two sections that exist in the said School and headed by two Head Masters coupled with different staffing patterns and separate pay rolls of the employees, there cannot be any functional integrality between the two sections. He, therefore, submits that the said two sections will have to be construed as two independent schools.

5. I find that respondent No.3 authority has specifically stated in paragraph No.5 of the affidavit that if there is a natural growth in an Ashram School, one more post of Head Master is admissible as per the natural growth. The post of Head Master for post basic Ashram School is admissible after up-gradation. The same management operates the school in one establishment. The primary section from first to seventh standards having been merged in the secondary section from eighth to tenth standards, converts the said school into a post basic Ashram School,which is commonly understood as a secondary school.

6. My attention is drawn to Rule 3.36(e) of the Ashram School Code, which indicates that the natural growth of the School leading to the addition of the eighth standard classes and above, entitles the appointment of a Head Master for the secondary school. The Head

Master of the primary school would continue to head the school upto the seventh standard. Rule 4.11(a), which specifically provides that the natural growth of the school raises to eighth standard or beyond thereon, would result into getting the said school converted into the secondary ashram school and the primary section from first to seventh standards would merge in the said secondary school.

7. The Government Resolution dated 19.1.2004 permits such a natural growth and consequentially the Rules cited by the learned AGP would become applicable to the case of the petitioner.

8. In the light of the above, the contention of the petitioner, in my view, has been rightly negated by the School Tribunal and the impugned order, therefore, cannot be termed as being perverse or erroneous.

9. This petition being devoid of merits is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)
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akl/d