

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

**WRIT PETITION NO. 1287 OF 2012
WITH
CIVIL APPLICATION NO. 2179 OF 2017**

The Mangaon Taluka Education Society,
Raigad & Anr.

...Petitioners

vs.

Shri Sayeed Saifan Saheb Solapure & Ors.

...Respondents

Mr.V.K. Bodhare for Petitioners/Applicants .

Mr.C.G. Gavnekar for Respondent No.1.

Mr.A.R. Metkari, AGP for Respondent No.3.

CORAM : PRASANNA B. VARALE, J.

DATE : 18 SEPTEMBER 2017

P.C. :

The present petition is filed by the management challenging the order passed by the Presiding Officer, School Tribunal, Pune Region, Pune, dated 18 November 2011 thereby allowing the appeal partly. It was submitted before this court that the parties have arrived at a settlement and the parties would abide by the direction in clause 3 of the Tribunal's order in respect of reinstatement of the Appellant with effect 28 November 2007. The Petitioner management is ready to reinstate Respondent No.1 in the petition, namely, Sayeed Saifan Saheb Solapure. Insofar as the rest of the part of clause 3, which refers to the payment of backwages, namely, the salary from 28 November 2007 till reinstatement and further continuation of payment of salary till completion of inquiry as MEPS Rules, learned Counsel for the management submits that there are certain Government Resolutions to the effect that if the vacant post is not filled up by the management and

the said Government has not credited the amount towards salary for that period, the management may not be burdened with the directions to pay backwages. Learned Counsel for the management submits that the management be permitted to raise this issue before the appropriate forum, if so advised. Needless to state that if such issue is raised, Respondent No.1 must have an opportunity of hearing in contest to such a ground raised by the management.

2 Thus, the petition is disposed of with the observation that the order of learned Presiding Officer, School Tribunal dated 18 November 2011 there shall be no interference insofar as the directions to reinstate Respondent No.1 in service and the Petitioner institute is at liberty to take up the appropriate proceedings in challenge to the issue raised in the part of clause 3 in respect of the backwages. If so advised, such exercise be undertaken within three weeks from today. The Petitioner management is permitted to reinstate Respondent No.1 with effect from 1 October 2017. The learned Presiding Officer of the School Tribunal framed the point for consideration in respect of the inquiry and the same reads "Whether the inquiry conducted against appellant is in consonance with the provision of MEPS Rule?" The finding recorded by the Presiding Officer in negative. The learned Presiding Officer of the School Tribunal considered the aspects, namely, the provisions were not followed in conduct of the inquiry. There was no observance of principle of natural justice. Arrived at a conclusion that the inquiry against Respondent No.1 was against the principle of fair play as such the same was vitiated. In view of these facts, no fault can be found with Respondent No.1 and there shall be no impediment to treat the reinstatement of Respondent No.1 with continuity of the service.

4 Learned Counsel appearing for the respective parties, namely, the management of Respondent No.1 and the appellant before the Tribunal, submit that the parties be permitted to withdraw the allegations and counter-allegations against each other so as to maintain the healthy atmosphere in the institute and continuation of the harmonious relations between the parties.

5 In view of the order passed in the petition referred to above, the civil application for directions does not survive and the same is also disposed of.

(PRASANNA B. VARALE, J.)