

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

WRIT PETITION NO. 9354 OF 2016

S.M. Batha Education Trust Through
S.M. Batha High School & Anr. ... Petitioners
Vs.

Department of Education & Ors. ... Respondents

....
Mr. Vivek Walawalkar a/w Mr. Dhiraj Chavan i/b Mr. Deven Dwarkadas
for the Petitioners.

Mr. Vaibhav Gaikwad for the Respondent No. 2.

Mr. A.R. Metkari AGP for the Respondent No. 1-State.

...
CORAM : A.A. SAYED, J.
DATE : 7 APRIL 2017

P.C.:

1 This Petition challenges an interlocutory order dated 18 January 2016 passed by the School Tribunal, Kolhapur, whereby the Petitioner/Management has been directed to file certified copies of all the documents as sought by the Respondent No. 1-Assistant Teacher in his Application dated 18 February 2015.

2 The documents of which production was sought are as follows:

“1 The Teaching Servant approval proposal from the year 1994 to 2014 and the order of the approval of the same taken from the Education Officer.

2 The particulars of the amounts of provident fund of the Appellant paid from the year 1994 to the Respondent Nos. 1 to 5.

3 Particulars of the salary given to the Appellant by the Respondent Nos. 1 to 5 from the year 1994.

4 Copy of the Muster roll from the year 1994 to the year 2014.

5 Appointment letter of the Appellant and all the other employees and order of their confirmation”.

3 Learned Counsel for the Petitioner/Management submits that so far as the document at Serial No. 1 is concerned, since school is an aided school there is no question of providing approval of proposals as sought. So far as the documents at Serial Nos. 2 to 4 are concerned, he submits that those records are not available inasmuch as the said documents are stolen and are not with the Petitioner/Management and the Petitioner/Management has filed a FIR in that regard. It is however not in dispute that the documents at Item Nos. 2, 3 and 4 were with the Petitioner/Management, at the relevant time, when the order was passed and the FIR was filed subsequent to the impugned order passed by the School Tribunal. Learned Counsel for the Petitioner states that so far as the documents at Item No. 5 is concerned, he is willing to produce the copy of the appointment letter of the Respondent No. 1 and not of other employees and that the Respondent No. 1 would have custody of the original of his appointment .

4 Having heard the learned Counsel for the parties, except to the above extent of accepting the statements of the learned Counsel for

the Petitioner that a copy of the appointment order and his confirmation order, if any, will be produced before the School Tribunal, I am not inclined interfere with the impugned order. It will be open to the Petitioner/Management to satisfy the School Tribunal that the other documents sought by the Respondent No.1 are not available or stolen and therefore cannot be produced. If the School Tribunal is not satisfied, it would be open for it to draw adverse inference. If the School Tribunal is satisfied that the appointment letter and confirmation letter of other employees were relevant and not produced by the Petitioner, it would again be open for the School Tribunal to draw adverse inference. The contention of the learned Counsel for the Respondent No. 1 is recorded that the Petition is not maintainable inasmuch as it is filed by a person who is no more a trustee. Considering the nature of order that is passed, it is not necessary for me to go into that aspect.

5 Subject to the above, the Writ Petition is disposed of. All contentions are kept open.

(A.A. SAYED, J.)