

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 7224 OF 2017

The President, Shree Chhatrapati Shivaji
Education Society And Ors.

...Petitioners

Versus

Mrs. Anjali Kiran Nikam And Anr.

...Respondents

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Mr.Pratap Patil, Advocate for the Petitioners.

Mr.R.S. Apte, Senior Advocate i/b. M.S. Lagu, for Respondent
No.1.

Ms.Anjali K. Nikam, respondent No.1 is present in Court.

Mr.Amol D. Joshi, Advocate is present in Court.

Mr.S.C. Naidu, Advocate for Mr.Amol D. Joshi.

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CORAM : R. G. KETKAR, J.

DATE : 13th JULY, 2017

P.C.

1. Heard Mr.Pratap Patil, learned Counsel for the
petitioners, Mr.R.S. Apte, learned Senior Counsel for respondent
No.1, at length.

2. Rule. Mr. Apte waives service on behalf of respondent
No.1. Having regard to the narrow controversy raised in this
Petition as also at the request and by consent of the parties,
Rule is made returnable forthwith and the petition is taken up

for final hearing.

3. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 13.6.2017 passed by the learned Presiding Officer, Additional School Tribunal, Navi Mumbai (for short, 'Tribunal') below Exhibit-17 in Appeal No.35/2016. By that order, the Tribunal rejected the application Exhibit-17 made by the petitioners before the Tribunal for transferring the appeal to any other available Presiding Officer. The Tribunal withdrew the special permission granted to Advocates Mr.Amol D. Joshi and Mr.V.V. Salunke and directed that the order be communicated to Bar Council of Maharashtra & Goa for appropriate action.

4. The matter was heard at length on 10.7.2017 and at the request of Mr. Patil, it was adjourned till today.

5. Mr. Patil has tendered affidavit dated 12.7.2017 of (1) Mr.Sanjay Ramchandra Abhang, (2) Mrs. Devika Sanjay Abhang and (3) Mr.Sanjay Ananda Bhamre. Same is taken on record and marked 'X' for identification. In paragraph-2 of the affidavit, they have expressed their desire to withdraw unconditionally the application Exhibit-17. They have sought permission to

withdraw application Exhibit-17 filed by the petitioners in Appeal No.35/2016. In paragraph-3, it is stated that they have given up the prayer for transfer of the appeal and undertook that they will not seek transfer of appeal No.35/2016. Undertaking given in paragraph-3 of the affidavit dated 12.7.2017 is accepted.

6. As noted earlier by the impugned order, the Tribunal has referred the matter to Bar Council of Maharashtra & Goa for taking appropriate action against Advocates Mr.Amol D. Joshi and Mr.V.V. Salunke. I have heard Mr. S.C. Naidu for Advocate Mr.Amol D. Joshi. Advocate Mr.Amol D. Joshi is also present in Court today. Upon taking instructions from him, Mr. Naidu states that Advocate Amol D. Joshi will file written apology before the Tribunal for :

1. not signing the application dated 11.4.2017 at Exhibit-17;
2. for signing affidavit dated 11.4.2017 in support of application Exhibit-17; and
3. for not filing affidavit as per the order dated 12.4.2017.

7. Mr. Naidu also seeks permission to withdraw purshis dated 19.4.2017. In view thereof, purshis dated 19.4.2017 stands

withdrawn.

8. I have also heard Advocate Mr. V.V. Salunke in my Chambers on 10.7.2017. After hearing him, I am satisfied that this is not a fit case for referring the case to Bar Council of Maharashtra & Goa. After hearing Mr. Naidu as also in view of the assurance given by Advocate Amol D. Joshi, I am also satisfied that this is not a fit case for referring the case to Bar Council of Maharashtra & Goa.

9. In view thereof, writ petition is disposed of in following terms:

- (i) Application Exhibit-17 stands withdrawn unconditionally.
- (ii) Statement made in paragraph-3 of the affidavit dated 12.7.2017 that the petitioners have given up prayer for transfer of appeal is accepted in the form of undertaking.
- (iii) Advocate Mr. Amol D. Joshi shall file written apology in the aforesaid terms on the next date of hearing before the Tribunal, which is scheduled on 17.7.2017.

The learned Presiding Officer will accept the apology.

- (iv) The impugned order dated 13.6.2017 stands dissolved. All adverse observations made against Advocates Mr.Amol D. Joshi and Mr.V.V. Salunke stand expunged. Clauses (2) and (3) of the impugned order, which are to the following effect, stand set aside.

(2) The special permission granted to Advocate Mr.Amol D. Joshi and Mr.V.V. Salunke is hereby withdrawn.

(3) The order be communicated to Bar Council of Maharashtra and Goa for appropriate action.”

- (v) Rule is made partly absolute in aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)