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

WRIT PETITION NO. 13916 OF 2016

Dhondiram Mahadeo Patil

...Petitioner

VS

Dinkar Sambhaji Patil & Ors.

...Respondents

.....

Mr Nitin P. Deshpande for the Petitioner

Mr Mandar Bagkar i/b Mr Sagar A. Mane for Respondent No.1.

Mr Jyoti Jadhav AGP for the State.

.....

**CORAM : PRASANNA B. VARALE J.
SEPTEMBER 11, 2017.**

P.C. :

Heard the learned Counsel for the Petitioner. The Petitioner is before this Court challenging the order passed by the learned Presiding Officer, School Tribunal, Kolhapur dated 22nd August, 2016 thereby rejecting the application seeking his impleadment in the appeal as the Respondent.

2 The facts giving rise to the present Petition can be summarized as follows:

Respondent No.1 Dinkar Patil preferred an appeal before the learned Presiding Officer, School Tribunal in challenge

to his oral and otherwise termination dated 20/09/2014. It was the submission of Respondent No.1 / Appellant that the Appellant was a permanent employee and was working with the Institute since 2002 on the post of the Clerk which was isolated post. It was also the submission of Respondent No.1 / Appellant that he was duly qualified for the appointment to the said post. The appeal was filed on 27/7/2014. The Appellant prayed for declaration to the order dated 29/9/2014 being an order of oral and otherwise termination and illegal order and further direction to reinstate the Appellant on his post as "Full Time Clerk" along with the consequential benefits. The appeal is contested by the Respondents, namely, the President of the Institute, the Secretary of the Institute and the Head Master of the School, namely, "**Deshbhakt Nivruttikaka Patil High School**". The Respondents before the Tribunal filed their Written Statement opposing the appeal and also opposing the interim order. The Petitioner before this Court submitted an application on 02/12/2015.

3 Perusal of the application placed on record show that it was the submission of the Petitioner that the Petitioner i.e.

Applicant before the Tribunal was working in the said school as Peon w.e.f. 19/06/2002. It was stated in the application that in the year 2003-04 the Society started 10th standard class in Respondent No.3 School and there was a post of Clerk which was required to be filled in the said academic year. It is the submission in the application that the Applicant who is possessing the qualification of H.S.C. Passed candidate and was entitled for appointment or promotion to the post of the Clerk in the School. It was also submitted that on 2/6/2003 the Applicant filed an application requesting the society to appoint or promote him on the post of Clerk but the application was not considered with an oblique motive. The Applicant then states in the application that the Appellant was never appointed on the post of Clerk by following due procedure of law. The Appellant was not permanent employee of Respondent No.1. On these grounds, the Applicant prayed for impleading him as a party Respondent in the proceedings.

4 The learned Presiding Officer of the School Tribunal, framed the point for determination, namely, Whether the Applicant is necessary for proper adjudication of the matter ?

The Tribunal recorded its finding in the negative. The Tribunal on the basis of material, more particularly on the basis of the contentions raised in the application found that the Applicant was Peon in the school, he was seeking / claiming his appointment or promotion on the post of Clerk. If that was so and if the claim was in the year 2003 and it was the submission of the Applicant that though he was possessing requisite academic qualification, was not appointed or promoted to the post of Clerk, the Applicant could have raised his grievance for the said claim at that relevant time. The Applicant was not prevented from initiating an independent and separate proceedings for lodging his claim and seeking the orders or decision on his claim from the Competent Forum. The Learned Presiding Officer, School Tribunal found that the application is merit-less and the Applicant was not necessary party in the appeal, the application was rejected.

5 Learned Counsel for the Petitioner made an attempt to submit before this Court that it was only an attempt for the Petitioner / Applicant to remain as watchdog in the proceedings because the Petitioner wanted to prevent foul-play in the nature

of connivance between the Management and the Appellant. The submission of the learned Counsel is not at all reflected in the application. The application was filed on raising specific grounds, those grounds were dealt by the learned Presiding Officer. The conclusions arrived at by the learned Presiding Officer, School Tribunal are on just appreciation. No error is committed by the learned Presiding Officer, School Tribunal, Kolhapur. The Petition is thoroughly merit-less and deserves to be dismissed and the same is accordingly dismissed. No order as to costs.

(PRASANNA B. VARALE J.)