

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2075 OF 2017**

Conference of Churches of Christ in Western India & Anr.	...Petitioners
Versus	
Smt. Sadhana Panjabrao Uke & Ors.	...Respondents

**WITH
WRIT PETITION NO.2076 OF 2017**

Conference of Churches of Christ in Western India & Anr.	...Petitioners
Versus	
Shri Nilesh Vijay Thorkar & Ors.	...Respondents

**WITH
WRIT PETITION NO.2077 OF 2017**

Conference of Churches of Christ in Western India & Anr.	...Petitioners
Versus	
Shri Rahul Mariba Gaikwad & Ors.	...Respondents

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Mr. V.S. Talkute for the Petitioners.
Mr. Mahesh Subramaniam i/b. Mr. S.V. Pitre for the Respondent No.1.
Ms K.R. Kulkarni, AGP for the Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th JUNE, 2017.

P.C. :

Rule. Respondents waive service. By consent, Rule is made
returnable forthwith.

2. The Respondent Nos.1 to 3 had claimed that they were appointed as Shikshan Sevaks. They had challenged the termination order dated 16th June, 2011 in Appeal under section 9(1) of Maharashtra Employees of Private School (Condition of Services) Regulation Act, 1977. The learned Presiding Officer of the School Tribunal allowed the Appeal and set aside and quashed the termination order. The Respondent Nos.1 to 3 were ordered to be reinstated as Shikshan Sevak within one month with all other consequential benefits. The said order is impugned in these Petitions.

3. Mr. Talkute, the learned counsel for the Petitioners submitted that the counsel appointed by the Petitioners failed to appear before the School Tribunal and as such the matter proceeded exparte. Consequently, the impugned order was passed without the Petitioners being heard.

4. Mr. Mahesh Subramaniam, the learned counsel for the Respondents submitted that the Petitioners are out of service since 2011-2012 and if at all the matter is remitted, the interest of the Respondents should be protected by directing the Petitioners to deposit a substantial amount towards back wages in addition to the costs.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The Respondents No.1 in each of these Petitions were appointed by one Shri Waghmode, who claimed to be the Secretary of the Petitioners' Trust. The records reveal that there are two groups claiming trust-ship of the Petitioners' Trust. The litigation between these two groups is pending before the Competent Authority under the Trust Act. Furthermore, several other proceedings are also pending between the parties.

6. The Petitioners claimed that said Waghmode was not an authorised Secretary and that he had no legal authority to appoint the Respondent No.1 in each of the Petitions as Shikshan Sevaks. The Petitioners have challenged the appointment of the Respondent No.1 in each of the Petitions on several other grounds. The Petitioners were unable to raise these grounds before the School Tribunal as the counsel engaged by the Petitioners had failed to appear before the School Tribunal. Interest of Justice therefore, demands that the matter is remitted for adjudication on merits upon hearing the respective parties. Suffice it to say that the interest of the Respondents can be safeguarded by directing the Petitioners to deposit a reasonable amount towards

back wages. Hence, the following order :-

ORDER

- (I) The Petitions are allowed. The impugned judgment is set aside.
- (II) The appeal is remitted to the School Tribunal with directions to the learned Presiding Officer to decide the appeal afresh after hearing the respective parties.
- (III) The Petitioners are directed to deposit a sum of Rs.1,00,000/- each before the School Tribunal towards back wages of the Respondent No.1 in each of these Petitions. The said amount should be deposited within a period of four weeks from the date on which this order is uploaded and the same shall be invested in any nationalised Bank in a fixed deposit, till the disposal of the Appeal.
- (IV) The Petitioners to pay costs of Rs.25,000/- to each of the Respondent No.1 in these Petitions.
- (V) The School Tribunal to make endeavour to dispose of the Appeal expeditiously.
- (VI) Both parties are directed to appear before the Tribunal on **27.6.2017.**
- (VII) Parties to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)