

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAW) NO. 138 OF 2017

IN

WRIT PETITION NO.5665 OF 2014

(SUNITA PRABHAKARRAO TALEY....VS.. SHIVAJI EDUCATION SOCIETY & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.C.Madkholkar, advocate for the Petitioner.
Shri Abhay Sambre, advocate for Respondent Nos.1 & 2.
Shri Neeraj Patil, A.G.P. for Respondent Nos. 3 to 5.

CORAM : Z.A.HAQ, J.

DATED : JANUARY 30, 2017.

Heard.

2. In this writ petition, the order passed by the School Tribunal dismissing the claim of the petitioner/employee for back wages, is challenged. In connected Writ Petition No.5343 of 2014 filed by the management same order passed by the School Tribunal is challenged. The challenge of the management is that the Tribunal could not have upheld the claim of the employee for reinstatement with continuity of service. In Writ Petition No. 5343 of 2014 initially the interim order was granted which came to be vacated. Consequently, the management has reinstated the employee.

3. Now, the employee has filed civil application with a grievance that after reinstatement the management has initiated enquiry against her. The employee has prayed that the enquiry proceedings initiated against her be stayed and notices be issued to the office bearers of the society which is

running the institution for committing contempt by wilfully disobeying the order passed by this Court.

4. The learned advocate for the management has submitted that the prayer made in the civil application cannot be granted as the civil application is filed in the petition filed by the employee in which the claim of the employee is only regarding back-wages. It is further submitted that the employee was prosecuted for the offence punishable under Section 302 of the Indian Penal Code and she had suppressed these facts from the management while seeking employment and when it came to the notice of the management, the enquiry is initiated. It is further submitted that the Tribunal, while upholding the claim of the employee for reinstatement with continuity of service has permitted the management to conduct the enquiry.

5. After considering the submissions made on behalf of the management and considering the facts of the case, in my view, the management can be permitted to proceed with the enquiry, however, as the contentions of the employee are required to be considered on merits and the order passed by the School Tribunal permitting the management to conduct enquiry is *sub judiced* in these petitions, the management can not permitted to take final decision in the matter.

6. Hence, the following order :

- i) The management is permitted to proceed with the enquiry initiated against the employee till the stage of submission of the enquiry report by the Enquiry Committee to the management.

- ii) The management shall not take any decision and shall not take any steps as per the enquiry report until disposal of these petitions.
- iii) The prayer of the employee for initiating the proceedings for contempt is not considered and the employee will be at liberty to initiate separate proceedings for that purpose, if so advised.

The Civil Application is **disposed** in the above terms. No costs.

JUDGE

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