

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5181 OF 2018
IN
WRIT PETITION NO. 5338 OF 2017

SMT PATEL FARJANA JAINUDDIN
VERSUS
THE SECRETARY, SHRI SAIBABA SEVA MANDAL AND OTHERS

Advocate for Appellant : Mr. Y.S. Choudhari.
Advocate for Respondent No. 1 : Mr. A.G. Talhar.
AGP for Respondent No. 2 : Mr. S.K. Tambe.

CORAM : RAVINDRA V. GHUGE, J.

Dated : 19th June, 2018

Per Court :

1. The Applicant is the original Respondent who has succeeded before the School Tribunal. She prays for withdrawal of the amount deposited by the original Petitioner/Management since the said amount of Rs. 13,50,768/- has been deposited towards the back wages.

2. Learned advocate for the Petitioner/Management has opposed the Civil Application contending that a forged appointment order was produced by the employee before the School Tribunal and she succeeded before the Tribunal only on the basis of such forgery.

3. The record indicates that the Respondent/Employee had

approached the Tribunal contending that she has been working as an Assistant Teacher from the year 2003 till her termination dated 31/03/2014. The Petitioner contends that the Appellant was working with Dr. C.M. Mehata, Kanya Vidyamandir, on hourly basis from June 2008 to April, 2009 and June 2010 to April 2011.

4. Upon instructions from the representative of the Management present in the Court, learned counsel for the Management submits that the Employee may be permitted to withdraw only Rs. 3,00,000/- subject to an affidavit undertaking.

5. By order of this Court dated 04/05/2017 and 05/10/2017, this Petition was to be heard finally at admission stage considering the service dispute involved. To balance the equities, the Management was given the option to either reinstate the Appellant or to deposit her back wages in this Court. The Management chose the second option.

6. Considering the above, the Civil Application is allowed and the Applicant/original Appellant is permitted to withdraw an amount of Rs. 3,00,000/- from this Court subject to filing an affidavit undertaking stating that if she suffers an adverse

order in this Petition and is not held entitled to any benefit, she would return the amount of Rs. 3,00,000/- within 08 weeks from the date of such orders. Learned counsel for the Appellant would duly identify her before the registry at the time of the withdrawal of the amount.

7. List Writ Petition No. 5338/2017, for hearing at admission stage on 16/07/2018. In view of the above, the execution proceedings under Section 13 before the School Tribunal shall be adjourned until further orders from this Court.

(RAVINDRA V. GHUGE, J.)

S.P.C.