

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 64 OF 2018

SHREE SANT DNYANESHWAR SHIKSHAN MANDAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Shri Bhokarikar Madhav M.
AGP for Respondents : Shri Yadav-Lonikar S.R.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 12, 2018
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PER COURT :-

1. The petitioner is aggrieved by the order dated 2.2.2017, by which, the School Tribunal has rejected application Exhibit 72 and has disallowed the petitioner / management from amending its Written Statement.

2. I have considered the strenuous submissions of the learned counsel for the petitioner / management. Primarily, it is contended that the application Exhibit 72 was filed for introducing proposed paragraph Nos.15, 16 and 17 in the Written Statement. They are in tune with the stand taken by the management. It would not change the nature of the cause of action. The Tribunal can always conduct a *de novo* enquiry, if the regular enquiry conducted is held to be vitiated for any reason whatsoever. No loss or harm would be

caused to appellant / employee if the amendment is allowed.

3. Reliance is placed upon the following judgments:-

- i) R.C.Chandel Vs. High Court of M.P. [AIR 2012 SC 2962] and
- ii) Sandranath Jawanjal Vs. Pratibha Shikshan Sanstha
[2007 (5) AIR Bom. R. 119]

4. With the assistance of the learned Advocate for the management, I have gone through the proposed paragraphs 15, 16 and 17 set out in Exhibit 17. I find that the contents of these proposed paragraphs are purely written notes of arguments. There is nothing in these three paragraphs which can amount to bringing on record certain / actual details about the disciplinary enquiry conducted against the appellant under Rules 36 and 37 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("MEPS Rules" for short). These three paragraphs, which are in Marathi are totally in the nature of making oral submissions before a Court. Such oral submissions or written submissions are not to be incorporated in a Written Statement, since a Written Statement cannot be in the form of written notes of submissions.

5. The petitioner / management was before this Court in Writ Petition No.11974 of 2014. Since the said petition raised similar issues, this Court disposed off the petition by permitting the management to canvass its submissions on the merits of the stand taken by the management before the Tribunal, when the Tribunal would decide the appeal on its merits. The specific observations of this Court read as under:-

"3. Considering the above, this petition is disposed off. The School Tribunal shall proceed to decide Appeal No.48 of 2011 expeditiously. Contentions of the litigating sides to the said appeal are obviously kept open since the Tribunal is hearing the litigating sides on merits. In the event, the appeal is decided against the petitioner, the petitioner shall avail of such legal remedy as is permissible in law."

6. The Tribunal, while passing the impugned order dated 2.2.2017 has come to a conclusion that the contentions put forth in Exhibit 72 are not in the form of pleadings. I have no reason to disagree with the findings of the Tribunal since the contents of the proposed three paragraphs are purely argumentative in nature and the said contentions can always be canvassed when the Tribunal would hear the appeal on its merits.

7. Considering the above, this petition being devoid of merits is dismissed.

(RAVINDRA V. GHUGE, J.)

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