

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9295 OF 2017
(Kailas Kevaldas Suryawanshi Vs. The state of maharashtra and
others)

Mr.B.R.Kedar, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for respondent Nos. 1 and 2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 19/11/2018

PER COURT :

1. The petitioner/employee, who was the appellant before the School Tribunal in Appeal No.4/2003, is aggrieved by the judgment dated 15/03/2017. Grievance is that the appeal has been dismissed by a lengthy order on the ground that the petitioner/appellant had arrayed the School Committee as the respondent and had failed to array the management of the school who is alleged to have terminated the service of the petitioner on 27/01/2003.

2. Learned Advocate for the petitioner submits that he has arrayed the management of the said educational institution as respondent No.4 in this petition.

3. The learned AGP has caused an appearance on behalf of

respondent Nos. 1 and 2 and submits that the author of the termination order which is the Management of the School, has to be arrayed as a respondent. The appeal preferred by this petitioner has suffered the impugned order on account of non-joinder of a necessary party.

4. Despite service of Court notice on respondent Nos.3 to 6, none have caused an appearance on behalf of the Management, the School Committee and the Head of the school.

5. Having considered the submissions of the learned Advocate for the petitioner and the learned AGP, I find that Schedule A under Rule 2 (1)(i) defines the "Constitution of a School Committee". The School Committee consists of representatives of a Management and the permanent teachers and would not constitute the Management of the said school. The Management of the school is defined u/s 2(12) of the M.E.P.S. Act, 1977.

6. Learned Advocate for the appellant submits that he would forthwith add the Management of the said school/educational establishment so that his appeal could be decided. Due to the impugned order, his appeal has been dismissed on a technical

ground and his challenge to the termination order has not been considered.

7. In view of the above, this petition is allowed. The impugned order dated 15/03/2017 is quashed and set aside with the following directions :-

[a] Appeal No.4/2003 shall stand restored to the file of the School Tribunal at Nasik.

[b] The appellant shall add the Management of the said school through its Chairman or Secretary within 30 days from today.

[c] The School Tribunal shall issue fresh notices to all the respondents pursuant to the addition of the parties.

[d] The petitioner/appellant shall suo-motu appear before the School Tribunal for adding the Management as directed above.

[e] After the pleadings in the said appeal are complete on or before 15/02/2019, the School Tribunal shall proceed to decide the said appeal expeditiously and in any case on or before 15/06/2019.

(Ravindra V.Ghuge, J.)