

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11014 OF 2018

The President Petitioners
Ideal Education Society & Ors.

Vs.

1 The Education Officer (Secondary)
Solapur Zilla Parishad

2 Shri. Anis Harun Satkhed Respondents
Solapur

Mr. Sadanand Kamtam a/w Mr. Laxman Bedekar I/by Mr. V.S.
Deokar for Petitioners.

Ms. Mansi Bane, AGP for the State.

Mr. Ashok B. Tajane for Respondent no.2

Coram : SMT. SADHANA S. JADHAV, J.

Date : 4th October 2018.

P.C.:

1. Heard respective parties. Rule. Rule made returnable
forthwith with the consent of the parties.

2. Respondent no.2 was working in Ideal Urdu Madhyamik
School, Majrewadi run by Ideal Education Society, Solapur initially
as a Peon and thereafter as a Naik w.e.f. 26th October 2003.

3. It is the case of the petitioners that the respondent no.2 herein has violated the provisions of the Maharashtra Civil Services (Declaration of Small Family) Rules 2005. The services of respondent no.2 were terminated by the School-Management on the ground that he has violated the said rules. It is, in these circumstances that the respondent no.2 was constrained to file an appeal before the School Tribunal.

4. Vide order dated 18th August 2018, the Presiding Officer, School Tribunal, Solapur had directed the respondents not to act on the order dated 19th July 2018 in respect of the appellant i.e. the present respondent no.2, that has taken effect from 16th July 2018 till the next date i.e. 30th August 2018. The appellant shall comply order under Rule 39(2) of Code of Civil Procedure.

5. The learned School Tribunal has observed that the issue as to whether the Small Family Act,2005 is applicable in case of the appellant is the question to be determined at appropriate stage. However, since the appellant is working in the said School since June

2001 and the interim order has been passed in favour of the appellant.

6. Needless to say that the appeal is pending for adjudication. Today the petitioners have impugned the interim order dated 18th August 2018 passed by the School Tribunal before this Court. It is the contention of the petitioners that the management and the Headmaster had tried to serve show cause notice upon the respondent no.2, that he had torn the show cause notice in the office of the Headmaster and thereafter had not responded to the notice. On perusal of the termination order, it is clear that no enquiry was held. Moreover, it appears from the submissions of the respective parties that the respondent no.2 was rendering services regularly till the date of termination order i.e. 16th July 2018. It goes without saying that there is no enquiry. It is incumbent upon the petitioners to abide by the interim orders passed by the School Tribunal dated 18th August 2018..

7. Learned counsel, Mr. Tajane submits that the respondent no.2 has attempted to join the services pursuant to the order dated

18th August 2018 on several occasions and has also given letters to that effect since 31st August 2018. The respondent no.2 had also approached School on 3rd September 2018, however, the School has not abided by the interim orders and had filed the present writ petition on 12th September 2018. The petition being sans-merits deserves to be dismissed.

8. The respondent no.2 shall be allowed to join the services forthwith i.e. from 8th October 2018.

9. The respondent no.2 before joining the services shall report to the Education Officer, Zilla Parishad and the Education Officer (Secondary) Zilla Parishad shall depute any office bearer from the office of Zilla Parishad alongwith the respondent no.2 on 8th October 2018 in order to see the interim orders are complied with.

10. With these directions, the rule is discharged. The petition stands disposed of.

(SMT. SADHANA S. JADHAV, J.)