

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

**WRIT PETITION NO.8041 OF 2017
WITH
CIVIL APPLICATION NO.723 OF 2018**

The Chief Executive Officer

Janata Education Society & Anr. .. Petitioners.

Vs.

Sou.Shraddha Sudhir Kulkarni & Ors. .. Respondents.

Ms.Sandhya Nonavare i/b Mr.M.Janardhanan for the petitioners.

Mr.N.V. Bandiwadekar for Respondent no.1.

Mr. J.A. Madane AGP for Respondent Nos.2 and 3.

CORAM : A.K. MENON, J.

DATED : 26TH MARCH, 2018.

P.C. ,

1. By this writ petition, the petitioner seeks to challenge the judgment and order dated 6th April, 2017 passed by the School Tribunal, Kolhapur on an appeal filed by the respondent no.1. The impugned order sets out that the respondent no.1 had been challenging the legality and validity of the termination order dated 30th March, 2013 with effect from 30th April, 2013 and an oral termination dated 18th June, 2013, the second termination is attributed to a sort of back-up practice followed by the petitioner – management.

2. Learned Advocate for the petitioner submitted that with reference to the memo of appeal filed before the School Tribunal, the reliefs sought in the appeal were declaration that respondent no.1 is a permanent full time employee of the petitioner and that this could not have been even considered in view of the fact that at all material times she was a part time teacher and there was no question to reinstating her as full time teacher as contemplated in the appeal. She submitted that the order of the School Tribunal was bad in having proceeded to consider the appeal on merits and despite the fact that according to her, there was no termination at all.

3. Exhibit-F to the petition is a communication dated 30th March, 2013 and impugned by the respondent no.1 before the School Tribunal by which services of the respondent no.1 were terminated with effect from 30th April, 2013, that is, at the end of academic year 2012-13. In the circumstances the contention of the petitioner that in effect there was no termination at all appears baseless.

4. Having considered the submissions on behalf of the petitioner and having perused the impugned order, it is clear that the findings of the School Tribunal are to the effect that the respondent no.1 was appointed as an Assistant Teacher by following due process of selection including by inviting application through advertisement and being appointed by an

interview conducted by the management. It is also recorded that respondent no.2 had granted approval for respondent no.1 to be appointed as a part time teacher. The impugned judgment proceeds to allow the appeal in part and holding that she had been a part time teacher. Issue Nos.1, 2 and 3 have been held in affirmative holding that the termination order with effect from 30th April, 2013 is illegal and unjust. In the circumstances having considered overall factual matrix and the reasons in the impugned judgment, I find no reason to interfere with the judgment and order dated 6th April, 2017. The petition, therefore, fails and I pass the following order :

- (a) Writ Petition is dismissed.
- (b) In view of dismissal of the writ petition, Civil Application No.723 of 2018 does not survive, the same is also disposed of.

(A.K. MENON,J.)