

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL WRIT PETITION NO. 10411 OF 2017**

Mr. Sanjay Vithoba Mane.

..Petitioner.

V/s.

Mumbai Pradesh Arya Vidya Sabha Gurukul

Education Trust & ors.

..Respondents.

Mr. Shamrao B. Gore, advocate for petitioner.

Ms. Anupama B. Shah, advocate for respondent Nos. 1 and 2.

Ms. Vaishali Nimbalkar, AGP, advocate for respondent Nos. 4 to 6.

**CORAM : SMT. SADHANA S. JADHAV,J.**

**DATE : OCTOBER 9, 2018.**

**P. C. :**

1            Heard the learned Counsel for the petitioner and learned Counsel for the respondent Nos. 1 and 2 and learned AGP for Respondent Nos. 4 to 6.

2            Rule. Rule made returnable forthwith with the consent of the parties.

3            The petitioner herein impugns the order dated 21<sup>st</sup> April, 2017 passed by the Presiding Officer, School Tribunal, Mumbai. The petitioner herein was an employee of the respondent Nos. 1 and 2. He had approached the School Tribunal challenging the order of termination dated 31/1/2011 issued by the respondent Nos. 1 and 2. The School

*Talwalkar*

Tribunal at initial stage had misconstrued that the petitioner's appeal was challenging his non-selection to the post of the teacher and therefore, the appeal was held to be not maintainable. The petitioner had approached the High Court. This Court (Coram : M.S. Sonak, J) by an order dated 19/10/2016 was pleased to set aside the order dated 13/11/2013 and had restored the file before the School Tribunal and had directed the school Tribunal to dispose of the said appeal in accordance with law on its own merits as expeditiously as possible. In the said proceeding, the respondent Nos. 1 and 2 had submitted before the School Tribunal the termination letter dated 23/12/2010, the reference number of which is Reference No. 264 of 2010-11 and the same was counter-signed by the present petitioner. It appears that when the said termination letter was given to the petitioner, the said letter was undated. And thereafter, subsequently, just before presenting the same before the School Tribunal, date was mentioned as 23/12/2010. The reference number of the said termination letter is reference No. VSGTS/264/10-11. The School Tribunal has considered the submission of the respondent Nos. 1 and 2 to the extent that they do not maintain any inward-outward register and therefore, it does not have any bearing. It is pertinent to note that the respondent No. 3 i.e. Tejas Patil was appointed vide order dated 1/2/2011 and the reference number is VSGTS/266/10-11. In view of the said anomalies, the petitioner had

sought inspection of the document, especially, the inward-outward register for the year 2010-2011. It was the contention of the management that since they do not maintain inward-outward register, there is no question of giving inspection of documents, especially of the inward-outward register. The said contention was upheld by the School Tribunal and the application filed by the Petitioner was rejected.

4           It appears that the inspection of the school record was taken by the Inspector, Vocational Education & Training, Regional Office. The Inspector has observed as follows : "Inspector had sought inspection of the registers from 2009 and it was the contention of the management that they do not maintain register. The school had given inspection that they have maintained inward-outward register only from 20/7/2014." Upon inspection, it was specifically observed that this is a misleading contention as the first page of 28/7/2014 bears the number 242 and not number 1. This would be clear that the pages have been torn from the said register. Moreover, on page No. 14, the outward number was VSGTS/347/14-15. In the letter which was at outward vide No. VSGTS/347/14-15, no date is mentioned. Outward register of the year 15-16 begins with page 353. Therefore, the conclusion drawn by the Inspector was that in all probabilities, the school was maintaining register prior to 2014 and they have caused disappearance of evidence

by destroying the documents. He had submitted a detailed report which shows all anomalies in the inward-outward register and it is clear from the said findings that the registers are being tampered with. In fact, the school tribunal ought to have considered the said report or atleast called for the report. Moreover, this Court cannot be oblivious of the fact that it is an aided school and it cannot be believed that they do not maintain any such register. The manner in which the date 23/12/2010 is mentioned, is more than clear to show that the said date was typed specifically. All these would clearly indicate that the school has tampered its record and has caused disappearance of the evidence.

5           The Assistant Director (Technical) has also filed affidavit and has specifically stated that the contention of the respondent Nos. 1 and 2 that they are maintaining outward register only from July 2017 is found to be false and incorrect and that they have deliberately not handed over outward registers and correspondence prior to July, 2014. Moreover, the appointment of Respondent No. 3, which shows the date 1<sup>st</sup> February, 2011 also indicates that he had filed an application on 22/11/2010 and the interview was held on 16/12/2010. There is no reference to any advertisement in the said letter. All that is stated -

“With reference to your application dated 22/11/2010 and subsequent interview held on 16/12/2010, we have the pleasure to inform you that you are, hereby, appointed as

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Assistant Teacher in P.T. subject"

6 Termination of the petitioner and the appointment of respondent No. 3 appears to be doubtful on all counts and the school tribunal will be duty bound to consider the same in its proper perspective and in accordance with law and take necessary coercive action, if necessary. The respondent Nos. 4, 5 and 6 shall also take cognizance of the present order. Hence, following order is passed :

**ORDER**

- (I) Rule is made absolute.
- (II) The impugned order dated 21/4/2017 passed by the Presiding Officer, School Tribunal, Mumbai is hereby quashed and set aside.
- (III) The learned School Tribunal shall call for entire records of outward register before the school tribunal and assess the same with the assistance of the either respondent Nos. 4 or 5 and 6.
- (IV) That the respondent Nos. 1 and 2 shall furnish all the records before the school Tribunal on or before 22/10/2018.
- (V) In the meanwhile, the Inspector, Vocational Education & Training shall seize the records from the office of the respondent Nos. 1 and 2 on or before 16/10/2018 and present the same before the school

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tribunal.

(VI) The Petitioner is at liberty to place the report of Inspector before the School Tribunal at the trial.

(VII) With these directions, the Petition is disposed of.

Parties to act on the authenticated copy of the order.

**[SMT. SADHANA S. JADHAV, J.]**