

34- WP 8495 of 2018

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

WRIT PETITION No. 8495 OF 2018

Ghansham Eknath Mhaske

...Petitioner

Vs.

Shri Khanderao Pratishthan & Ors.

...Respondents

Mr.Anurag Jain for Petitioner

Ms.Sharan Patole for Respondent Nos.1,2,3 and 8

Mr. Yogesh S.Jadhav for Respondent No.9

Ms.Mansi Bane -AGP for Respondent No.6.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: OCTOBER 10, 2018

P.C.

The order passed by this Court in Writ petition No. 8323 of 2018
be read along with the present order.

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

parties.

2. The Petitioner herein is an Appellant in Appeal No. 50 of 2017 pending before the School Tribunal, Pune. Respondent No.9 herein had filed a complaint directly to the Administrative Officer, Municipal School Board, Pune against the present Petitioner on 28th November, 2017. Pursuant to the said representation/ complaint made by Respondent No.9, the Deputy Director of Education had withdrawn the approval granted in favour of the Petitioner.

3. Be that as it may, Respondent No.9 herein had filed appeal No. 40 of 2014 before the School Tribunal challenging the act of otherwise termination by the management. In appeal No. 50 of 2017, Respondent No.9 had filed an application seeking intervention. In fact, the issue before the School Tribunal was between the management and the Petitioner. The Petitioner had to approach the School Tribunal only because of the complaints made by Respondent No.9 pursuant to which the approval was withdrawn. The management pursuant to the order passed by the Deputy Director, Education, Pune by an order dated 18.11.2017, had directed the Petitioner to work as an Assistant Teacher instead of the Head Master. In fact, Respondent No.9 had no locus to file an application seeking intervention in Appeal No. 50 of

2017. It was also brought to the notice of the Tribunal by the Petitioner that the intervenor Respondent No.9 is working as a Police Patil of Village Shivai, Taluka Maval, Dist. Pune and, therefore the relationship between the intervenor and the management vis-a-viz the Petitioner had come to an end.

4. The learned counsel for the Petitioner has also drawn attention of this Court to the substantive evidence i.e. the cross examination of Respondent No.9 in Appeal No. 40 of 2014 pending before the School Tribunal. It is admitted by Respondent No.9 that he had not taken permission of the management prior to applying to National Institute of Construction, Management and Research (NICMAR). It is also admitted that he had joined NICMAR in 2013. He has also admitted that on 1st of July, 2013 he had been to the School at 7.00 a.m. and did not find his name in the muster roll and thereafter he was informed that his services are no more required. Hence, he had approached the School Tribunal. It is also admitted by him that the circular was issued by the Education Officer to the effect that the school had observed holiday on 1st of July, 2013. In any case, appeal No. 40 of 2014 will be decided on its own merits.

4. For the reasons stated hereinabove and the order dated 1st October, 2018 in Writ Petition No. 8323 of 2018, the order dated 15th March, 2018

passed by the School Tribunal in Appeal No. 50 of 2017 deserves to be quashed and set aside. The proceedings before the School Tribunal shall commence from the stage at which it had stopped, except for the intervention of Respondent No.9. Rule is made absolute in the above terms. The writ petition stands disposed of.

[SMT. SADHANA S. JADHAV, J.]