

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**4 CIVIL APPLICATION NO.11504 OF 2019
WITH WRIT PETITION NO. 1699 OF 2019**

**MAHAJABEEN FATEMA ABDUL RAHMAN
VERSUS
ANJUMAN ISHAAT E TALEEM TRUST THROUGH SECRETARY
AND OTHERS**

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Advocate for the Applicant : Shri A. S. Deshpande
Advocate for Respondent No. 1 and 2 : Shri S. S. Kazi
AGP for Respondent Nos. 3 and 4 : Shri S. R. Yadav - Lonikar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 30th SEPTEMBER, 2019.

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PER COURT :

1. I have heard the learned Advocate for the employee and on behalf of the Management.
2. It is informed by the learned Advocate for the Management that it would arrange for a video recording of the Departmental Enquiry as per the suggestion of the employee.
3. *Insofar* as the engagement of, commonly known as the employee's nominee on the Enquiry Committee, Shri Deshpande submits that till today two nominees were

appointed by the employee on the Enquiry Committee, Ms. Asma Kausar and Mrs. Sayyada Nasreen Fatema. Miss Asma Kausar was allegedly asked by the Management to quit the Enquiry Committee and Miss Sayyada Nasreen has informed the convener of the Enquiry Committee that political pressure has been exerted upon her and she therefore does not desire to represent the employee.

4. The learned Advocate for the Management denies all these allegations.

5. The fact however remains that, conspicuously, the nominees appointed by the employee have withdrawn under controversial circumstances. Shri Deshpande suggests that the employee may now be permitted to appoint a co-employee working in the same school with an undertaking by the Management that no such circumstances would be created compelling her / him to withdraw the nomination or permit an Advocate to be the nominee of the employee.

6. The learned Advocate for the Management submits that

any employee as per the choice of the applicant employee can be appointed as the nominee. Shri Deshpande suggests the name of Mrs. Kausar Asma contending that if no pressure is exerted on her, she would be the nominee of the applicant on the Enquiry Committee. The learned Advocate for the Management assures the Court that there shall be no pressure exerted on Mrs. Asma, she will not be under any threat of disciplinary action or any action of whatsoever nature as a backlash and she can perform the work of a nominee without any apprehension.

7. In view of the above, this petition as well as the Civil Application is disposed off by recording the following statements :-

- (a) Mrs. Kausar Asma would be the nominee of the employee Ms. Mahajabeen Fatema.
- (b) The amounts received by Ms. Fatema would be towards her subsistence allowance.
- (c) If there is any unpaid subsistence allowance, the Management would pay the same on month to month basis till the enquiry is concluded.

(d) The petitioner Ms. Fatema shall cooperate in the enquiry and would avoid seeking unnecessary adjournments.

(e) The Management shall not exert pressure on Mrs. Kausar Asma and till the enquiry is concluded, no apprehension shall be created so as to enable her to perform her duty in accordance with the MEPS Rules.

(f) In the event the petitioner Mrs. Fatema receives suspension allowance through the salary grants in view of the bills submitted by the Management to the Government, she would reimburse the said amount by paying the same to the Management within ONE WEEK of receiving such payments from the Government.

(g) The video recording of the departmental enquiry would be preserved by the enquiry committee after each session of the enquiry. There shall be no tampering of the videography instrument and after the enquiry is concluded, the Management would prepare DVDs in the presence of the nominee of the petitioner Mrs. Fatema and supply one set of DVDs to the

charge-sheet.

(h) The videography bill would be footed by the Management.

(RAVINDRA V. GHUGE, J.)

shp/-