

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

WRIT PETITION NO.6844 OF 2018

Balaji s/o Shankarrao Hente
Age : 35 years, Occu. At present Nil,
R/o : Ratoli, Tq. Naigaon (Kh.)
Dist. Nanded.

PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary, School
Education Department,
Mantralaya, Mumbai-32
2. The Presiding Officer,
School Tribunal, Latur,
Tq. & Dist. Latur *...Deleted as per
order dated 11/02/2019*
3. The Secretary,
Sanskriti Sanvardhan Mandal's
Shardanagar, Sagroli, Tq. Biloli,
Dist. Nanded.
4. The Head Master/Principal
Shri Chhatrapati Shivaji High School,
And Junior College, Shardanagar,
Sagroli, Tq. Biloli, Dist. Nanded.
5. The Deputy Director of Education
Latur Division Latur.

...RESPONDENTS

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Advocate for the Petitioner : Shri M. P. Tripathi
AGP for Respondent Nos. 1 and 5 : Shri N. T. Bhagat
Advocate for Respondent Nos. 3 and 4 : Shri S. V. Kulkarni

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 11th FEBRUARY, 2019.

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ORAL JUDGMENT :

1. Leave to delete respondent No. 3 School Tribunal.
Deletion be carried out forthwith.

2. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

3. The petitioner - original appellant in Appeal No.
46/2014 is aggrieved by the impugned order dated
05/04/2018, by which, his application Exhibit 90, has been
rejected and leave to amend the Appeal memo is refused.

4. It appears from the record that the petitioner was earlier
terminated by order dated 31/07/2014. He preferred his
Appeal before the School Tribunal. The Management stated
before the Tribunal through an application filed on
15/04/2017 that it had no faith in the Tribunal. Though such
frivolous allegations were refuted by the Tribunal, the matter

was adjourned and came up before a new presiding officer. An application was preferred by the Management Exhibit 78 seeking permission to withdraw the termination order and conduct a *denovo enquiry*. The said application was allowed by order dated 11/08/2017.

5. The petitioner was before this Court in Writ Petition 12705/2017. Same was disposed off by order dated 16/03/2018 recording the statement of the petitioner that since he has been issued with a second termination order, he would challenge the same before the School Tribunal in the pending Appeal. It is noteworthy that the liberty sought by this petitioner from this Court was that he would challenge his second termination order before the School Tribunal in the "*pending appeal*" which is Appeal No. 46/2014. Such leave was granted by this Court by order dated 16/03/2018.

6. In my view, in this backdrop, the School Tribunal apparently has failed to apply its mind while passing the impugned order dated 05/04/2018. This petition is therefore allowed. The impugned order dated 05/04/2018 is quashed

and set aside. Consequentially, the order dated 05/04/2018 below Exhibit 1 disposing off Appeal No. 46/2018 is also quashed and set aside and the said Appeal is restored to the file of the School Tribunal, Latur.

7. These litigating sides shall appear before the School Tribunal on 04/03/2019. No notice is required to be issued to the Management.

8. The petitioner shall amend the Appeal by incorporating the grounds for challenge set out in Exhibit 90 on or before 15/03/2019. The Management shall file its additional written statement to the amendment portion on or before 15/04/2019 and no extension of time would be granted. Thereafter, the Tribunal would decide the said Appeal on its own merits.

9. A freshly typed amended copy of the Appeal would also be filed on or before 15/03/2019.

10. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

shp/-