

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

936 WRIT PETITION NO.9405 OF 2019

NINAD EKNATH GAIKWAD
VERSUS
SURYAKANT JANARDHAN SHEJWAL AND OTHERS

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Advocate for Petitioner : Shri Bagul D.S. h/f Shri Madan V.B.
Advocate for Respondent 1 : Shri Gastagar S.B.
AGP for Respondent 4 : Shri Tiwari S.P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 30, 2019

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PER COURT :-

1. The petitioner has challenged a communication dated 10.7.2019, issued by respondent No.2 / Education Society, informing him that since respondent No.1 has succeeded in Appeal No.3 of 2018 before the School Tribunal and is granted reinstatement with continuity and 50% backwages, the said appellant will have to vacate the position occupied by the petitioner. Learned Advocate for the petitioner submits that his appointment on 16.6.2011 has nothing to do with the termination of the original appellant on 7.7.2014.

2. I find that this petition need not be entertained for two reasons. Firstly, that the petitioner was appointed in June, 2011 when the original appellant was in employment and was orally terminated in July, 2014 after three years. *Prima facie*, there is no connection of employment between the two. Secondly, the petitioner was neither a respondent before the School

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Tribunal, nor was it averred before the School Tribunal that only after the appellant was removed, this petitioner was inducted in his place.

3. As such, the petitioner, upon developing the apprehension of the likelihood of being disengaged by virtue of the communication dated 10.7.2019, would be at liberty to approach the School Tribunal by preferring an appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 ("the MEPS Act"), since the termination, which appears to be imminent, by the said communication, can be considered by the School Tribunal in the light of the law laid down by the Honourable Apex Court in the matter of Hindustan Lever Vs. Ashok Vishnu Kate [AIR 1996 SC 285 = 1995 (6) SCC 326]. All said and done, the petitioner would also be at liberty to challenge his termination if it actually occurs.

4. Considering the above, this petition is disposed off.

5. In the event the petitioner approaches the School Tribunal and moves an application for interim relief, the School Tribunal will consider the said application on its own merits and expeditiously.

(RAVINDRA V. GHUGE, J.)

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