

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
**WRIT PETITION NO. 3460 OF 2018**

|                                    |                |
|------------------------------------|----------------|
| Mrs.Bhavika Anil Vartak            | .. Petitioner  |
| Vs.                                |                |
| Tarapur Education Society and ors. | .. Respondents |

Mr.Mandar Limaye, for the Petitioner.  
Mr.Satyajeet H. Joshi, for Respondents No. 1 to 3.  
Mr.K.S.Thorat, AGP for Respondent No.4.

**CORAM : M.S.KARNIK, J.**

**DATE : 26<sup>th</sup> MARCH, 2019**

**P.C. :**

. Rule. The respondents waive service. By consent,  
Rule made returnable forthwith and heard finally.

2. The petitioner has challenged the judgment and order passed by the School Tribunal dated 16/12/2017 in this Petition filed under Articles 226 & 227 of the Constitution of India. It is the case of the petitioner that she was appointed as a Shikshan Sevak for a period of 3 years from 15/06/2011 to 14/06/2014. After the period of 3 years, she would be entitled

to be appointed as an Assistant Teacher. However, the respondent – Management by the order dated 28/04/2014 terminated the services of the petitioner. Challenging this termination, the petitioner approached the School Tribunal. On an earlier occasion, the School Tribunal by order dated 05/02/2016 dismissed the Appeal. The petitioner challenged the order of the School Tribunal in this Court by way of Writ Petition No. 6222 of 2016. This Court by order dated 26/09/2017 was pleased to set aside the order of the School Tribunal and remanded the matter back to the Tribunal to decide the Appeal on merits after giving full opportunity of hearing to the parties. This Court specifically observed that the petitioner placed the relevant materials on record to show that she was appointed after following due procedure. The petitioner placed on record copy of advertisement, copy of appointment, copy of proposal forwarded to Education Officer (Secondary) which also indicates that an advertisement was published in the newspaper. Thereafter the petitioner was called for an interview and she was selected in the interview conducted on

14/05/2011 and accordingly was appointed. This Court was therefore of the view that learned Presiding Officer of the Tribunal failed to consider the materials placed on record in its proper perspective. This Court also observed that the Tribunal failed to note the facts of the matter and the facts of the judgment of the Apex Court in the case of **Chhatrapati Shivaji Shikshan Prasarak Mandal and ors. Vs. Dattatraya Rupa Pagar and ors. in Civil Appeal No. 3563 of 2012 (arising out of SLP(C) No. 18327 of 2011)**.

3. On the other hand, learned Counsel for the respondents would urge that the Tribunal has considered all the aspects in detail. It is his submission that the services of the petitioner were discontinued from 28/04/2014 and therefore there is no error in the findings of the Tribunal. He would submit that the petitioner's contention that this is a case of otherwise termination is devoid of any merit. According to him, order passed by the Tribunal is a reasoned order and after considering all the materials on record.

4. I have heard learned Counsel for the parties. I have also gone through the Petition and annexures thereto. Upon remand pursuant to the order of this Court, the School Tribunal by the order dated 16/12/2017 again dismissed the Appeal. It appears that despite specific order of this Court, the School Tribunal has not considered the Appeal on merits. It is the specific case of the petitioner that the termination order dated 28/04/2014 amounts to otherwise termination. The petitioner was appointed for a period of 3 years and the said period of 3 years was to come to an end in June 2014 after which the petitioner was entitled to be appointed as an Assistant Teacher. However, the petitioner came to be terminated on 28/04/2014. The Tribunal while coming to the conclusion that the contention of the petitioner that she was otherwise terminated from 16/06/2014 is not sustainable made observation in paragraph 40 which reads thus :

“It is further contention of the appellant that, she is not allowed to sign on the muster from 16/06/2014 which amounts to otherwise termination of her services. After considering the pleadings of both the parties as well as the documents produced on record the respondent school already intimated her on 28/04/2014 that, her services were not continued as per the resolution of the School

Committee dated 12/04/2014, hence the presence of the appellant on 16/06/2014 as per her contention is not believable as she has received the said letter dated 28/04/2014 on the same day and her endorsement to that effect appears on the said letter. Therefore, the contention of her otherwise termination from 16/06/2014 is not sustainable.”

The petitioner specifically has made out a case that the School Committee is having no authority to terminate the services of the petitioner. When the petitioner was appointed for a period of 3 years and all of sudden, her services are discontinued on 28/04/2014, just before the said period was to come to an end, it was necessary for the Tribunal to have considered all the contentions advanced by the petitioner on merits instead of passing a cryptic order holding that the contention of the petitioner as regards otherwise termination is not sustainable. Even this Court had remanded the matter back to the Tribunal to decide the Appeal on merits.

At the cost of repetition, in my opinion, when the petitioner was on the verge of the completion of the period of 3 years, at which point of time the petitioner's services came to be

discontinued, it was all the more necessary for the Tribunal to have gone into question whether the order dated 28/04/2014 discontinuing the services of the petitioner from 12/04/2014 amounts to otherwise termination after considering the materials on record. Hence, the following order.

**ORDER**

(i) The impugned order of the Tribunal is therefore quashed and set aside.

(ii) The matter is remitted back to the Tribunal for deciding the same afresh as expeditiously as possible and in any case, within 4 months from today.

(iii) Parties to appear before the School Tribunal on 02/04/2019.

(iv) All contentions are kept open.

5. Rule is made absolute and disposed of in the

aforesaid terms with no order as to costs.

**(M.S.KARNIK, J.)**