

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 24248 OF 2016

Anjuman-E-Ittehad-O-Taaraqqi .. Petitioner

Trust through Secretary

Anees Patel and Anr.

Vs.

Smt. Shaikh Akhtar Parvin

.. Respondent

Mukhtar Ahamad and Ors.

Mr. S. B. Thorat for the Petitioner.

Mr. K. S. Thorat, AGP for Respondent nos. 2 and 3.

Ms. Manjri S. Parasnis for Respondent no.1.

CORAM : A.K. MENON, J.

DATED : 4th FEBRUARY, 2019.

P.C. :

1. After this matter was heard for sometime it will be appropriate that the petition is disposed of finally at the stage of admission. Learned counsel for the respondent submits that respondent no. 4 is made a formal party. The name of the respondent no. 4 shall be deleted. In the circumstances, I issue Rule. Rule returnable forthwith. Amendment to be carried out on or before 6th February, 2019. Re-verification dispensed with. Learned counsel for respondent no. 1 and Learned AGP for respondent nos. 2 and 3 waive service.

2. The impugned judgment dated 8th July, 2016 framed three issues which are as follows :

1. *Whether charges leveled against the appellant are duly proved?*

2. *Does appellant prove that she was illegally reduced rank from the post of Head Mistress to Asst. Teacher vide order dated 28/04/2014?*

3. *Whether Appellant is entitled for the reliefs claimed as prayed?*

3. However reasons for the findings that are arrived at are merely reproduction of the submissions of counsel on both sides. It is only in paragraph 30 that the tribunal placed reliance upon decision of the Apex Court in the Case of *Educational Society, Tumsar vs. State of Maharashtra [(2016)3 SCC 512]* how the facts of that case and the ratio thereunder apply to the facts at hand has not been adverted to. Besides the basis of arriving at the affirmative conclusion in respect of issue no. 2 is not clear and factual findings have not been dealt with.

4. In the circumstances the appeal will have to be remanded for hearing to the Tribunal for the aforesaid reasons and I pass the following order :

(i) It will be open to the respondent to agitate the appeal afresh. All issues are kept open. The appeal will be heard on merits and a reasoned order shall be without being influenced by this order.

- (ii) Rule Made absolute in the above terms.
- (iii) Writ Petition disposed of.
- (iv) Parties to appear before the Tribunal on 25th February, 2019

(A.K. MENON,J.)