

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.2390 of 2018
(Ku. Pratibha Umashankar Pandhare .vs. Mahila Jagruti Shikshan Sanstha
Wagoli and others.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. N.S. Autkar, Advocate for Petitioner.
Mr. C.A. Lokhande, AGP for Respondent No.3.

CORAM : Manish Pitale, J.
DATED : May 2, 2019.

By this writ petition, the petitioner has challenged judgment and order dated 14.02.2018 passed by the School Tribunal, Nagpur, whereby appeal filed by the petitioner against order dated 19.12.2014 terminating her service as Shikshan Sevak, has been dismissed.

2. A perusal of the impugned judgment and order passed by the Tribunal shows that one of the main reasons why the Tribunal has held against the petitioner is that there was no material placed on record by the petitioner to show that she was appointed as Shikshan Sevak in pursuance of advertisement issued by the Management after due permission of the Education Authorities and that there was nothing to show that process of selection through interview had been conducted, leading to her appointment. On this basis, the Tribunal held that the appointment of the petitioner could not be said to be in terms of Section 5

of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

3. Although the Tribunal in the impugned judgment and order has made observations in favour of the petitioner as regards contentions raised on merits on her behalf, but since it has been found that her appointment itself could not be said to be in terms of Section 5 of the aforesaid Act, the appeal has been dismissed.

4. Along with the present writ petition, the petitioner has filed copy of the advertisement said to have been issued by the respondent no.1 Management in pursuance of which the petitioner applied, as also documents showing the process of interviews having been conducted by the respondent no.1, wherein the petitioner appeared along with other applicants. It is the case of the petitioner that in pursuance of the said process she was appointed on 01.12.2008 for a period of two years on probation. It is further contended that the said advertisement was also issued upon due permission taken from the respondent no.3- Education Officer. This material has been produced on behalf of the petitioner for the first time before this Court and, therefore, it would be unfair to find fault with the impugned order passed by the Tribunal when such material was not placed before the Tribunal. Although the respondent- Management had been served and appearance of counsel is shown, none has appeared on behalf of the respondent- Management.

5. In these circumstances, instead of going into the documents and material placed before this Court for the first time on behalf of the petitioner, it would be in the interest of justice that an opportunity is granted to the petitioner to place the documents on record before the Tribunal for a fresh consideration of her case.

6. Accordingly, the writ petition is partly allowed, the impugned judgment and order passed by the School Tribunal is quashed and set aside. The matter is remanded to the School Tribunal for considering afresh Appeal No. 70 of 2014 filed by the petitioner. Liberty is granted to the petitioner to file the aforesaid documents and such other material as she may be advised in furtherance of her claim. The Tribunal shall take into consideration the said material while deciding the appeal afresh. It is made clear that this Court has not expressed any opinion on the genuineness or otherwise of the said documents. The Tribunal would be at liberty to take a call on the said aspect after granting proper opportunity to the rival parties in that regard.

7. The writ petition is partly allowed as above. Considering the fact that the order of termination of service of the petitioner was dated 19.12.2014, the Tribunal shall make an endeavour to dispose of the appeal expeditiously and preferably within six months from today.

JUDGE