

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

WRIT PETITION NO.4025 OF 2021

<u>PETITIONER</u>			Shri. Dinesh S/o. Baburao Kotangale, Aged about 51 years, Occ. Junior College Lecturer, R/o. Shri. Mathuradas Mohta College of Science, Umred Road, Nagpur
			<u>VERSUS</u>
<u>RESPONDENTS</u>	:	1.	Kamal W/o. Prabhakar Gonnade, Aged about 57 years, Occ. Service, R/o. 205, Revatinagar, Besa, Nagpur.
		2.	Nagpur Shikshan Mandal, Nagpur, Through its Secretary, Near Narsingh Talkies, Mahal, Nagpur.
		3.	Shri. Mathuradas Mohta, College of Science, Umred Road, Nagpur-09, Through its Principal.
		4.	Deputy Director of Education, Nagpur Division, Nagpur.
		5.	The Presiding Officer, School Tribunal, Nagpur.

Shri. P. S. Wathode, Advocate for Petitioner
 Shri. P. N. Shende, Advocate for Respondent No.1
 Shri. V. P. Marpakawar, Advocate for Respondent Nos.2 and 3
 Ms. M. A. Barabde, AGP for the Respondent Nos.4 to 5.

<u>CORAM</u>	:	<u>N. B. SURYAWANSHI, J.</u>
<u>DATE</u>	:	<u>12.10.2021.</u>

ORAL JUDGMENT

RULE. Rule made returnable forthwith.

Heard finally with the consent of the parties..

2. By this petition, the Petitioner challenges the order dated 30.09.2021 (Annexure-A) passed by the Presiding Officer, School Tribunal, Nagpur, below Exh-50 in STN No.31 of 2016, thereby rejecting the Application filed by the Petitioner/original Respondent No.4 seeking fixing of the matter for evidence and to direct the parties to lead evidence.

3. The Respondent No.1 has filed Appeal before the School Tribunal, Nagpur seeking relief of setting aside the termination order dated 31.09.2016 and further relief of reinstatement to her original post, in service with full back wages alongwith continuity in service and other consequential benefits. During the course of hearing of Appeal, the present Petitioner came to be arrayed as Respondent No.4 in the proceedings vide order dated 08.08.2019 passed by this Court in Writ Petition No.5229 of 2018.

4. Thereafter, the Respondent No.1 was permitted to amend the Appeal by adding prayer to quash and set aside the order dated 01.06.2015, issued by the Respondent No.3 (Respondent No.4) i.e. the order of absorption of present Petitioner and further seeking direction to Respondent No.2 (Respondent No.3), to forthwith upgrade the Appellant to the post of the Full Time Lecturer, and to direct the Respondent No.3, to grant its approval to the upgradation w.e.f. 01.04.2014 and to release the salary of the Appellant as a Full Time Lecturer, w.e.f. 01.04.2014. The Petitioner challenged the grant of amendment in Writ Petition No.666 of 2020. This Court permitted the amendment to the extent of addition of Respondent No.4/Petitioner before the Tribunal in the pending Appeal and the rest of the amendments were set aside. Accordingly, present Petitioner was arrayed as Respondent No.4 in the proceedings.

5. The Petitioner/Respondent No.4 thereafter filed an Application i.e. Application (Exh-50) contending that the post in question was reserved for Scheduled Tribe Candidate and the Appellant had fraudulently and by misrepresentation, obtained appointment of Respondent No.2. The Appellant does not belong to Scheduled Tribe Category and has deprived a genuine Scheduled Tribe Candidate. The Appellant was selected and appointed according to the workload distributed due to the retirement of the Vice Principle on 31.03.2014. There are mixed question of law and facts and factual material has been suppressed by the Appellant by tampering the Government Circular and Resolution. For this purpose, these facts can be elicited from the mouth of Appellant during the course of evidence, and therefore, the prayer for direction to lead evidence to the parties was made.

6. The Tribunal rejected the said Application by observing that the issue involved in Appeal is

between Appellant and Respondent Nos.1 to 3. The allegations of fraud or fabrication of any document are not raised by the Respondent Nos.1 to 3, and therefore, the Respondent No.4/Petitioner has no locus standi to raise this issue and rejected the said Application.

7. Taking into consideration the prayers made in Appeal, the Respondent No.4/Petitioner cannot claim to lead evidence in support of her contentions. The Tribunal has rightly held that the issue involved is between the Appellant and the Respondent Nos.1 to 3 and the Respondent Nos.1 to 3 have not raised contentions about the fraud. In that view of the matter, the Tribunal was justified in rejecting the Application filed by the Petitioner/Respondent No.4.

8. The Tribunal has passed a reasoned order and no case is made out by the Petitioner to interfere in the impugned order under writ jurisdiction. Writ Petition is therefore **dismissed**.

Rule discharged with no order as to costs.

(N. B. SURYAWANSHI, J.)

TAMBE