

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9113 OF 2022

The Secretary
Jyoterling Shikshan Samajik & Anr.

... Petitioners

Versus

Pranita Venkatrao Suryawanshi & Anr.

... Respondents

...

Mr. Suhas P. Urgunde, Advocate for the Petitioners
Mr. Satish S. Manale, Advocate for Respondent No.1

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 3rd October, 2022

PER COURT :-

1. By this petition filed under Article 226 & 227 of the Constitution of India, petitioner/management challenges the order dated 18/03/2016, passed by the School Tribunal, Latur in Appeal No.47/2014 , thereby partly allowing appeal filed by respondent no.1 and directing to reinstate the respondent no.1 with continuity of service and full back-wages on the ground that appeal was decided without written statement and without hearing learned Advocate for the petitioners.

2. I have duly considered the rival submissions of learned Advocate for the petitioners and learned Advocate for respondent no.1. Perused the grounds raised in the writ petition, documents filed along with same and reply filed by respondent no.1

3. This petition challenges the order passed in the year 2016. The petition is filed in the year 2022. The petitioners have stated in the writ petition memo that, daughter of petitioner no.1/Secretary was suffering from cancer from the year 2013 and she expired on 27/06/2018. The petitioners therefore lost track of the matter.

4. The Tribunal has proceeded to decide the appeal without written statement of the petitioners. Record indicates that, the learned Advocate representing the petitioners was not heard at the time of final hearing of appeal. The Tribunal has allowed the appeal since assertions of respondent no.1 went unchallenged.

5. Pursuant to the impugned judgment passed by the School Tribunal, respondent no.1 filed execution proceedings, wherein, arrest warrants were issued against the petitioners. The petitioners filed undertaking before the Tribunal to deposit 25% of back-wages within 15 days. On that undertaking, the order of issuance of arrest warrants was recalled by the Tribunal.

6. The learned Advocate for respondent no.1 vehemently opposed the petition contending that till today, petitioners have failed to deposit 25% amount of back-wages, as per undertaking filed by them. According to him, petitioners have deposited only an amount of Rs.1,50,000/- when 25% arrears are Rs.2,50,000/-. Respondent no.1 is permitted to withdraw Rs.75000/- so far.

7. In view of the fact that appeal is allowed, as the statements of respondent no.1 have gone unchallenged, as petitioners failed to file written statement and opposed the appeal on merits, it is necessary in the interest of justice to set aside the impugned order and to give a fair opportunity to the petitioners to contest the appeal on merits. Hence, the following order:

ORDER

(i) The writ petition is allowed.

(ii) The impugned judgment and order dated 18/03/2016 passed by School Tribunal, Latur, is hereby quashed and set aside subject to the petitioners paying costs of Rs.50,000/- to respondent no.1.

(iii) Petitioners shall deposit Rs.1,00,000/- (i.e. balance 25% amount, as per their undertaking) in the Tribunal, within a period of four weeks from today.

The respondent no.1 shall be entitled to withdraw Rs.50,000/- from that amount on condition, respondent no.1 to file an undertaking before the Tribunal.

(iv) Parties shall appear before the Tribunal on 13/10/2022. Notice in that behalf is waived.

(v) On 13/10/2022, petitioners shall file their written statement to the appeal. The parties shall be at liberty to lead their respective evidence before the Tribunal.

(vi) The Tribunal shall decide the matter on merits, within a period of eight weeks from the date of first appearance of the parties.

[NITIN B. SURYAWANSHI, J.]

Sameer