

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

Writ Petition No. 1544 of 2022

- (1) Lokseva Shikshan Sanstha,
Sirsi, Tq. Umred, District Nagpur,
Through its working President
Dr. Avinash Herambha Dekate,
Aged 70 years, Occ : Retired.

Amended
as per
Court
order dtd.
17.03.2022

- (2) Vasantrao Naik Krushi Vidhyalaya Va
Kanistha Mahavidhyalaya, through its
Head Master, Sirsi, Tah. Umred,
District – Nagpur.

... Petitioners

... Versus ...

- (1) The Presiding Officer, School
Tribunal, Civil Lines, Nagpur.
- (2) Gangadhar s/o Baliram Hedau
Aged about 57 years, Occ : Nil,
R/o Bhandarkar layout
Plot No. 21, Umred, Nagpur.

Transposed
as
Petitioner
no. 2

- (3) ~~Vasantrao Naik Krushi Vidyalaya Va
Kanistha Mahavidyalaya, through its
Head Master Sirsi, Tq. Umred,
Dist.1 Nagpur.~~

- (4) Education Officer (Secondary)
Zilla Parishad, Nagpur.

... Respondents

Mr. A. B. Patil, Advocate for the petitioners
Ms. T. H. Khan, A. G. P. for the State/respondents 1 and 4
Mr. A. D. Mohgaonkar, Advocate for respondent 2

CORAM : ROHIT B. DEO, J.

DATED : 28-4-2022

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard with consent of the learned counsel appearing for the parties.

2. Petitioner 1 is a society registered under the provisions of the Societies Registration Act, 1860 and manages petitioner 2, school (hereinafter collectively referred as “the management”). The management is assailing the judgment dated 31-1-2021 rendered by the School Tribunal, Nagpur (Tribunal) in STN Appeal 80/2019 whereby the Tribunal set aside the order of termination dated 14-8-2019 and directed the management to continue the respondent 2, Gangadhar Baliram Hedau (teacher) till the date of superannuation and to pay the entire back wages. The direction to continue the teacher till the date of superannuation was in view of the fact that the teacher was in employment by virtue of an interim order.

3. It is common ground that the teacher was terminated on the premise that certificate of Halba Tribe which he held was invalidated by the scrutiny committee. The case of the teacher was that he was appointed in clear and permanent vacancy in the Open category and, therefore, invalidation of the Halba Tribe certificate is of

no relevance or significance. It further appears from record that while invalidating the certificate, the scrutiny committee directed the management to terminate the teacher on the assumption that the teacher was appointed in vacancy reserved for Scheduled Tribe. Be that as it may, the direction issued by the scrutiny committee has *sans* significance since a finding of fact is recorded by the Tribunal that the teacher was not appointed against vacancy reserved for Scheduled Tribe or any other category.

4. Adverting to the judgment impugned, the Tribunal noted the common ground that the teacher was appointed against clear vacant post. The Tribunal noted that the teacher did not avail any benefit in the entire service tenure of 32 years, on the premise that he belongs to reserved category. The Tribunal then considered the roster for the year 2004 and then the roster for year 2012 which is duly signed by the President of the management which refers to the appointment of the teacher as from Open category. In all fairness, the learned counsel for the management, Mr. Amol Patil does not join issue with the submission of learned counsel for the teacher, Mr. Mohgaonkar that no material was placed on record by the management to demonstrate that the appointment of the teacher was against reserved category.

5. I have already noted that the direction issued by the scrutiny committee was absolutely unnecessary and in any event, is of no significance. It is not clear from record, on the basis of which material the scrutiny committee assumed that the teacher was appointed against reserved post. Au contraire, the material which the Tribunal has considered, and in addition to the rosters which I have referred to supra, the material includes the seniority list published on 31-7-2004 which shows the appointment of teacher as from Open category and the seniority list published on 1-10-2012 which again shows the appointment of teacher as from Open category.

6. In my considered view, the finding rendered by the Tribunal and the consequential relief granted is unexceptionable.

7. The learned counsel for the management, Mr. Amol Patil would, however, submit that entire fault lies at the door step of the scrutiny committee and that it would be inequitable to burden the management with the liability to pay the back wages. I am not required to delve deeper since it is open for the management to prefer an appropriate representation to the Education Department seeking salary grant. However, it is clarified that it shall be the duty of the management to comply with the judgment of the School Tribunal and

to pay the monetary benefits to the teacher. Pendency of the representation or application which may be made to the Education Department shall not be a reason to delay the payment to the teacher.

8. If any application or representation is preferred by the management seeking release of the salary grant for the period of unemployment of the teacher, such application or representation shall be considered by the authority as expeditiously as possible and, in any event, within thirty days from the receipt thereof.

9. At this stage of the judgment, learned counsel, Mr. Amol Patil clarifies that representation is already forwarded to the Education Officer (Secondary) on 4-4-2022. Needless to observe that if such representation is received by the said authority, the same shall be decided within next 30 days.

10. Subject to the observations supra, the petition is dismissed with no order as to costs.

JUDGE

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