

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

WRIT PETITION NO. 840/2021

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| 1] | Mahatma Fuley Adivasi Va Magasvargiya Seva Sanstha,
Jalgaon-Jamod, through its Secretary,
R/o. Jalgaon-Jamod, Tq. Jalgaon-Jamod,
District Buldhana. | |
| 2] | Prathamik Adivasi Ashram Shala,
Hanvatkhed, through its Head-Master,
R/o. Hanvatkhed, Tq. Jalgaon-Jamod,
District Buldhana. | <u>PETITIONERS</u> |

...VERSUS...

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| 1] | Additional Commissioner Tribal Development
Department,
Behind Office of Police Commissioner, Camp,
Amravati, Tq. and District Amravati. | |
| 2] | Project Officer Integrated Tribal Development
Project, Akola, Tq. and District Akola. | |
| 3] | Ku. Sheela Zaduji Wakode,
Age – 41 years, Occ-Nil,
R/o. Lakhanwada, Tq. Khamgaon,
District Buldhana. | <u>RESPONDENTS</u> |

Shri P. S. Patil, Advocate for petitioners.
 Ms. H. N. Jaipurkar, Assistant Government Pleader for respondent nos. 1 & 2.
 Shri Alok Daga, Advocate for respondent no.3.

CORAM : A.S.CHANDURKAR and PUSHA V. GANEDIWALA JJ.
DATED : 1st FEBRUARY, 2022.

ORAL JUDGMENT (Per A.S.Chandurkar, J.)

Rule. Rule made returnable forthwith and heard learned counsel
 for the parties.

2. The respondent no.3 was in employment of the Ashram School run by the petitioner no.1-Society as an 'Assistant Teacher'. Her services came to be terminated by an order dated 19.10.2019. The respondent no.3 being aggrieved, approached the Additional Commissioner Tribal Development Department, Amravati, who by the order dated 17.01.2020 set aside the order of termination dated 19.10.2019 and directed that the respondent no.3 be reinstated in service. Being aggrieved, the petitioners have challenged the aforesaid order.

3. At the outset, Shri P.S.Patil, learned counsel for the petitioners submits that since the respondent no.3 was serving in the Ashram School, the order of termination issued by the Management terminating the services of such employee can be challenged before the School Tribunal by filing an appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short, 'the Act of 1977'). He submits that this issue has been decided by the learned Single Judge in Writ Petition No.3330/2019 (*Shri Hansh Shikshan Krida and Vyayam Prasarak Mandal, Akola and anr. Vs. Laxman Maroti Raut and anr*) decided on 21.09.2020.

4. Shri Alok Daga, learned counsel for the respondent no.3 does not dispute this legal position. He therefore seeks leave to challenge the order dated 19.10.2019 before the School Tribunal, Amravati.

5. In view of aforesaid, the following order is passed :

(1) The order dated 17.01.2020 passed by the Additional Commissioner, Tribal Development Department, is set aside as having been passed without

jurisdiction in view of the judgment in Writ Petition No.3330/2019 dated 21.09.2020.

(2) The respondent no.3 is at liberty to challenge the order of termination dated 19.10.2019 by filing an appeal under Section 9 of the Act of 1977 before the School Tribunal, Amravati.

(3) If the respondent no.3 files such appeal within a period of four weeks from today, the same shall be entertained by the School Tribunal on its own merits without going into the question of delay. If however such appeal is preferred after the period of four weeks from today, the question of delay shall be considered in accordance with law.

(4) The appeal if filed shall be decided on its own merits in accordance with law. All points raised by the parties in that regard are kept open.

The Writ petition is disposed of in aforesaid terms. Rule accordingly. No costs. Pending civil application also stands disposed of.

(PUSHPA V. GANEDIWALA, J.)

(A.S.CHANDURKAR, J.)

Andurkar..