

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 469 OF 2023

The Secretary, Shivaji Shikshan Prasarak Mandal, .Petitioners
Barshi & anr.

Vs.

Laxman Subhash Gardade & ors.

.Respondents

**WITH
WRIT PETITION NO. 10150 OF 2023**

Pallavi Baburao Bhure & ors.

.Petitioners

Vs.

Laxman Subhash Gardade & ors.

.Respondents

Mr. Suhas S. Inamdar, Advocate, for the Petitioners in W. P. No. 469 of 2023

Mr. Nagesh Y. Chavan, Advocate, for the Petitioners in W. P. No. 10150 of 2023 and for Respondent Nos. 3 to 6 in W. P. No. 469 of 2023

Mr. A. P. Vanarase, AGP, for the Respondent – State

Mr. Machhindra A. Patil a/w. Mr. Vijay R. Garad, Advocate, for Respondent No. 1 in both matters

CORAM : MADHAV J. JAMDAR, J.

DATE : 25.10.2023

P. C.

1. Mr. Chavan, learned counsel appearing for the Petitioners in W. P. No. 10150 of 2023 states that the impugned order which is challenged in W. P. No. 469 of 2023 is also challenged in W. P. No. 10150 of 2023. Accordingly, the W. P. No. 10150 of 2023 is taken on board.

2. The challenge in both the Writ Petitions is inter alia to the order dated 29.09.2022 passed by the learned Presiding Officer, School Tribunal, Solapur below Exh. 99 in Appeal No. 137 of 2020. By the said impugned order, the Application seeking amendment in Appeal has been allowed.

3. The factual position on record clearly shows that the Appellant in Appeal No. 137 of 2020 is qualified as M. Sc., B. Ed. and he was working as Full Time Teacher with effect from 16.06.2014 with the Shivaji Shikshan Prasarak Mandal, Barshi (hereinafter referred to as "**The Management**"). His services were terminated by the management on 14.06.2018 and therefore, he filed Appeal No. 137 of 2020 before the learned Presiding Officer, School Tribunal, Solapur. It appears that before his termination on 14.06.2018, the proposed Respondent Nos. 4 to 7 to the said Appeal were appointed on 05.06.2018 and their appointments were approved on 15.06.2020. In view of this development, the Appellant filed amendment Application to introduce the contention that the Appellant is the senior most teacher and therefore, senior to Respondent Nos. 4 to 7 and that the Management illegally without giving any notice or without inquiry denied claim of the Appellant as Assistant Teacher from unaided to aided post and therefore, sought relief by amendment

that the order of appointment of Respondent Nos. 4 to 7 be declared as illegal and set aside.

4. It is the contention of Mr. Inamdar and Mr. Chavan, learned counsel appearing for the Petitioners that the School Tribunal has no jurisdiction to deal with the said dispute. However, Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short '**M.E.P.S. Act**') provides that any employee in a private school who is dismissed or removed or whose services are otherwise terminated or who is reduced in rank, by the order passed by the Management can approach School Tribunal. It is the contention of the Appellant that what has been sought to be done by the Management by appointing Respondent Nos. 4 to 7 is that the Appellant is reduced in rank. By the proposed amendment, the said factual aspects are sought to be brought on record. Therefore, there is no substance in the contention raised to challenge the order dated 29.09.2022 passed by the learned Presiding Officer, School Tribunal, Solapur below Exh. 99 in Appeal No. 137 of 2020.

5. Insofar as W. P. No. 10150 of 2023 is concerned, the same also challenges order dated 16.03.2022 passed by the

Presiding Officer, School Tribunal, Solapur below Exh. 68 in Appeal No. 137 of 2020. The present Writ Petition impugning the said order dated 16.03.2022 has been filed on 24.07.2023 i. e. after a period of about 16 months.

6. It is the contention of Mr. Chavan, learned counsel appearing for the Petitioners that the prayers sought by the amendment are beyond the jurisdiction of the School Tribunal. However, reliefs as sought to be amended by the Applicants bearing Exh. 68 are also covered by Section 9 of the M. E. P. S. Act, as the same are concerning the reduction in rank of the Appellant.

7. Accordingly, the Writ Petitions challenging the order passed below amendment application are dismissed with no order as to costs.

8. It is clarified that the observations made in the impugned orders as well as in this order are only for consideration of the amendment application and the contentions on merits of all the parties concerning the Appeal by Respondent No. 1 are expressly kept open.

(MADHAV J. JAMDAR, J.)