

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

WRIT PETITION NO. 1258 OF 2022.

Sandip Dinkar Dahifale

.. Petitioner

vs.

Dhainje Shikshan Sanstha through Chairman
& Ors.

.. Respondents

...

Mr. Sughandh B. Deshmukh, with Irvin D'souza, i/b. Rajaram B Deshmukh, for the Petitioner.

Mr. Vipul K. Bodhave, for Respondent Nos. 1 & 2.

...

CORAM: SANDEEP V. MARNE, J.

DATE : 29 AUGUST 2023.

P. C.:

1. By this Petition, the Petitioner has challenged order dated 18th October, 2021 passed by Presiding Officer, School Tribunal, Pune. The Tribunal has partly allowed the appeal filed by the Petitioner and has set aside Termination Order dated 15th June 2016. Though the Tribunal has set aside the termination order, it has declined to grant relief of reinstatement to the Petitioner. The only reason why the Petitioner has been denied reinstatement is a finding of fact recorded by the Tribunal that the Petitioner was working on non-grant-in-aid division.

2. The learned counsel for the Petitioner has drawn my attention to communication dated 18th August 2010 issued by Deputy Director of Education, Pune by which the Respondent School was apparently granted 60% aid from the year 2008-09. The communication shows that three approved posts of D.ED for standard 5 to 7 was granted 60% aid.

3. The learned counsel for the Petitioner would therefore submit that the finding recorded by the Tribunal that Petitioner was working against non-aided post is factually incorrect.

4. The Respondents have filed Affidavit-in-Reply in which they admit that though the school was initially not getting any aid, subsequently it started receiving part aid from the State Government. The Affidavit is, however, silent as to whether the Petitioner was working against one of the three posts to which 60% aid was granted vide communication dated 18th August 2010.

5. In my view, the communication dated 18th August, 2010 was not placed before the Tribunal and Tribunal did not have the benefit of deciding the issue of nature of Petitioner's service. On the basis of certificate produced by both the Petitioner and Respondent,

the Tribunal has recorded a finding of fact that the Petitioner was working against non aided post. Now, fresh material is sought to be produced to demonstrate that the post was in fact aided. In my view, this issue needs to be decided by the Tribunal.

6. Accordingly, order dated 18th October, 2021 passed by the Tribunal, to the limited extent of denial relief of reinstatement and award of compensation is set aside. The Appeal is remanded back to the Tribunal to decide the limited issue whether Petitioner is entitled to reinstatement in the light of fresh material that is sought to be produced by the Petitioner. The Respondent is entitled to deal with the additional materials sought to be produced by the Petitioner.

7. After consideration the material produced by both the sides, the Tribunal shall first determine whether Petitioner was working against the partly aided post or not. The Tribunal would thereafter proceed to decide whether Petitioner can be granted the relief of reinstatement. All contentions of the parties on this aspect are left open.

8. It is clarified that the decision of the Tribunal setting aside the termination order dated 15th June 2016 is not disturbed.

9. With the above observation, the Writ Petition is disposed of.

SANDEEP V. MARNE, J.