



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

WRIT PETITION NO.3329 OF 2023

(Balvikas Shikshan Sanstha, Ghatbori thr. its Secretary Mr. Devaji Maroti Bankar and others Vs. Bhajendra Ruplal Harinkhede)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. C. M. Samarth, Advocate for Petitioners.
Mr. I. N. Choudhari, Advocate for Respondent.

CORAM: ANIL S KILOR, J.

DATE: 23rd AUGUST, 2023.

In the present writ petition, the challenge is raised to the *ex-parte* judgment and order dated 14.07.2022, passed by Presiding Officer, School Tribunal, Nagpur in School Tribunal Appeal No.1/2020.

2. The only ground on which the learned counsel for the petitioner is seeking to set aside the impugned judgment and order is that after filing of the appeal there was corona – pandemic, and hence, nobody appeared in the appeal and after end of pandemic, the petitioner management lost the track of the said matter. Mr. Samarth, the learned counsel for the petitioner therefore, prays for quashing and setting aside the impugned order and prays to grant one opportunity to defend the case.

3. On the other hand Mr. Chaudhari, the learned counsel for the respondent strongly opposes the present writ

petition and submits that after pandemic, no care was taken by the petitioner to pursue the matter. Therefore, he prays for dismissal of the present writ petition.

4. In the light of rival submissions, I have perused the record and impugned judgment.

5. It appears from the record that the petitioner appeared in appeal and file preliminary objection vide Exh.10 and thereafter the petitioner failed to file the reply and therefore, the learned Tribunal proceeded *ex-parte* against the petitioner.

6. The respondent is out of service from last four years. It cannot be ignored that after filing of the appeal till the decision, a major period was under pandemic and therefore, the possibility as submitted by the learned counsel for the petitioner that, the petitioner lost the track of the appeal cannot be ruled out. Therefore, I am of the opinion that one opportunity should be given to the petitioner to defend his case. However, it should be subject to the condition to deposit 50% of back-wages to show *bonafide* by the petitioner – management.

7. Accordingly, I pass the following order:

- i] The writ petition is allowed.
- ii] The judgment and order dated 14.07.2022

passed by the Presiding Officer, School Tribunal, Nagpur in STN No.1/2020 is hereby quashed and set aside

- iii] The appeal is remanded back to the School Tribunal to decide afresh subject to deposit amount equal to 50% of back-wages, by the petitioner within eight weeks from today in the School Tribunal.
- iv] The school Tribunal shall decide the appeal expeditiously and in any case within four months from the date of appearance of the parties.
- v] The party shall appear before the School Tribunal, Nagpur on 01.09.2023 at 11:00 a.m.

(ANIL S. KILOR, J)