



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1851 OF 2023

Dhananjay Dilip Pandhe

.....Petitioner

Vs.

Pandharpur Education Soc
Thr its Chairman and Ors

.....Respondents

Mr. Laxman S. Deshmukh for the petitioner

Mr. Akshay Kulkarni for respondent no. 5

Mr. S. S. Patwardhan i/b Ms. Mrinal Shelar for respondent no. 1

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

CORAM : GAURI GODSE, J.

DATE : 9th JANUARY 2024.

P.C.

1. Learned counsel for the petitioner relied upon the decision of the Full Bench in the case of *Hasmiya Bahrul Faiz Social Welfare Association Vs. Abdullah M. Shukur Qureshi and others*¹ to support his submissions that the appeal filed by respondent no. 5 was not maintainable before the School Tribunal. The petitioner and

¹ 2023 SCC OnLine Bom 688

respondent no. 5 both were appointed as Assistant Teachers in Respondent No. 2-college.

2. Learned counsel for respondent no. 5 on instructions states that he does not dispute that the appeal filed by respondent no. 5 before the School Tribunal will not be maintainable in view of the decision of the Full Bench of this Court. He therefore on instructions of respondent no. 5, who is present in the Court states that he will withdraw the appeal filed before the School Tribunal, however, his services may be protected for a limited period. He states that if four weeks time is given, he will adopt appropriate proceedings before the appropriate forum for redressal of his grievance.

3. In view of the aforesaid statement, since respondent no. 5 seeks leave to withdraw the appeal, the petition can be disposed of by granting leave to respondent no. 5 to withdraw the appeal before the School Tribunal with liberty to adopt proceedings as permissible in law.

4. Since it is not disputed that the impugned order dated 5th December 2022 has already been implemented and respondent no. 5 has already been reinstated, it will be in the interest of justice that the

services of respondent no. 5 are protected for 4 weeks from today to enable him to adopt appropriate remedy as permissible in law.

5. Learned counsel for the petitioner further states that pursuant to the order passed by the School Tribunal, the service of the petitioner is terminated, and hence, by way of amendment, he has challenged his termination and prayed for reinstatement. Learned AGP has stated that in view of the pendency of the present petition, approval to the appointment of respondent no. 5 was kept pending. A perusal of the termination letters issued to the petitioner indicates that the only reason for termination is the order passed in Appeal No. 60 of 2021. Thus, learned counsel for the petitioner is right in submitting that in view of the statement made by respondent no. 5 for withdrawal of his appeal, the termination letters dated 25th January 2023 and 30th January 2023 issued in pursuance to the order dated 5th December 2022 passed by the School Tribunal, will be rendered ineffective.

6. In view of the petitioner's statement to withdraw the Appeal No. 60 of 2021, no further consideration is necessary in the petition.

7. Hence, for the reasons recorded above the Writ Petition is

disposed of by passing the following order:

ORDER

I. Respondent no. 5 is permitted to withdraw Appeal No. 60 of 2021 which was filed before the School Tribunal, Pune Region at Solapur, and consequently, the impugned judgment and order dated 5th December 2022 passed by the Presiding Officer, School Tribunal, Solapur in Appeal No. 60 of 2021 is quashed and set aside.

II. Respondent no. 5 is at liberty to adopt appropriate proceedings as permissible in law for the redressal of his grievance that was the subject matter of Appeal No. 60 of 2021.

III. For a period of 4 weeks, the status of services of respondent no. 5 as well as the petitioner shall remain unaltered.

IV. After a period of 4 weeks from today, the termination letters dated 25th January 2023 and 30th January 2023 issued by the respondent nos. 1 and 2 shall be rendered ineffective, in the event there are no favourable orders passed in favour of respondent no. 5 in appropriate proceedings, if any, initiated by the respondent no. 5.

V. It is made clear that I have not examined the rival contentions of the parties on merits and hence, all contentions of all parties are kept open.

8. Petition stands disposed of in the above terms.

[GAURI GODSE, J.]