

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1623 OF 2022

Rajendra Manik Ahire	Petitioner
V/S	
Samirunnisa Mohd. Islam & Ors.	Respondents

Mr. Vishal S. Khanavkar *for the Petitioner in WP 1623 of 2022.*

Mr. A.A. Maniyar *for Respondent No.1 in WP 1623 of 2022.*

WITH

WRIT PETITION NO.1540 OF 2024

Dr. Mushtaq Shaikh	Petitioner
V/S	
State of Maharashtra & Ors.	Respondents

WITH

INTERIM APPLICATION NO.200 OF 2024

IN

WRIT PETITION NO.1540 OF 2024

Samirunnisa Mohd. Islam	Applicant
IN THE MATTER BETWEEN	
Mushtaq Shaikh	Petitioner
V/S	
State of Maharashtra & Ors.	Respondents

Mr. Devendra Shukla *for the Petitioner in WP 1540 of 2024.*

Mr. Prashant Kamble, AGP *for Respondent No.1/State in WP 1540 of 2024.*

Mr. A.A. Maniyar, *for Respondent No.6 in WP 1540 of 2024.*

CORAM: SANDEEP V. MARNE, J.
DATE : 26 MARCH 2024.

P.C.:

1 Petitioners in the present Petitions are aggrieved by the direction of the Presiding Officer, School Tribunal, Mumbai imposing costs of Rs.50,000/- on each of them while allowing Appeal No.6 of 2021 filed by Respondent-Teacher challenging her otherwise termination.

2 Perusal of the impugned order passed by the School Tribunal would indicate that the learned Presiding Officer, School Tribunal thought of imposing exemplary costs of Rs.50,000/- each on Education Inspector North Zone and Deputy Director of Education by holding that both of them were responsible for delay in processing the proposal for approval of appointment of the Respondent-Teacher. In my view, the issue of approval of appointment of Respondent-Teacher does not fall within the ambit of enquiry in an Appeal filed under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. In fact the learned Presiding Officer, being aware of this position, has repeatedly observed in the order that the issue of grant or refusal of approval was not within his jurisdiction. Despite this, the learned Presiding Officer has proceeded to impose costs on the Petitioners holding them responsible for delay in processing the proposal for approval. In my view, the learned Presiding Officer has clearly erred in imposing costs on the Petitioners. If the Respondent-Teacher is aggrieved by

non-grant of approval or by keeping the proposal for approval pending, her remedies lie elsewhere. In fact the learned counsel appearing for the Respondent-Teacher would clarify that the Respondent-Teacher has already filed the Petition before the Division Bench of this Court for grant of approval for her appointment. The learned Presiding Officer of the School Tribunal did not have jurisdiction to decide the issue of grant or refusal of approval to the appointment of Respondent-Teacher.

3 In my view therefore imposition of costs on the Petitioners by the learned Presiding Officer of the School Tribunal is totally unwarranted.

4 Writ Petitions accordingly succeed. Paragraph 5 of the judgment and order dated 13 December 2021 passed by the learned Presiding Officer of School Tribunal in Appeal No.6 of 2021 as well as all consequential directions in that regard shall accordingly stand set aside. It is clarified that this Court has not disturbed the other directions issued by the School Tribunal.

5 With the above directions, the Writ Petitions are allowed and disposed of.

6 The Petitioner in Writ Petition No.1623 of 2022 (Rajendra Manik Ahire) shall be at liberty to withdraw the amount deposited in this Court in pursuance of order dated 18 April 2022 alongwith accrued interest.

7 In view of the disposal of the Writ Petitions, Interim Application would not survive and the same is disposed of accordingly.

(SANDEEP V. MARNE, J.)