



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

WRIT PETITION NO. 4391 OF 2017

(Vidya Vikas Mandal, Lakhandur & Anr. Vs. Rajani d/o Wamanrao Hemke & Anr.)

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

Court's or Judge's orders.

Shri H.S. Chitaley, Counsel for the petitioners.
Ms U.A. Patil, Counsel for respondent no.1.
Ms D.I. Charlewar, A.G.P. for respondent no.2.

CORAM : ANIL L. PANSARE, J.
AUGUST 5, 2024

Leave to delete name of respondent no.3
is granted. The same be deleted forthwith.

2] Heard.

3] One of the grounds raised by the
petitioners (original respondent nos. 1 and 2) is that
the School Tribunal, without issuing notice,
proceeded with the appeal, after the matter was
remitted back by this Court vide order dated
18/4/2015 passed in Writ Petition No. 4492/2007.

4] The petitioners have, in the petition,
averred that they were absolutely unaware of the
proceedings that were carried out *ex-parte* before the
School Tribunal. According to the petitioners, the
Tribunal, without issuing notice, proceeded further
and decided the matter vide award dated 9/8/2016.
They came to know of the said award upon receipt of

notice issued by the Counsel appearing for respondent no.1 – employee.

5] Having heard both sides and having gone through the entire record, it appears that after remitting the matter back, the School Tribunal has not issued notice to the petitioners. The order, remitting back the matter, does not indicate that parties were directed to appear before the School Tribunal on a specified date. In that sense, the petitioners were right in expecting issuance of notice by the School Tribunal.

6] The learned Counsel for respondent no.1 submits that once the matter is remitted back, the petitioners ought to have approached the School Tribunal to find out whether the matter is taken-up on board. She submits that respondent no.1 approached the School Tribunal and appeared before it without receiving any notice.

7] To counter, the learned Counsel for the petitioners submits that the petitioners had filed review application against the order passed by this Court to which the learned Counsel for respondent no.1 submits that there was no stay and, therefore, the School Tribunal was right in proceeding further.

8] No fault can be attributed in School Tribunal proceedings further when there was no stay

in review application. However, the Tribunal ought to have issued notice to the petitioners. Having not done so, the petitioners cannot be blamed for not appearing before the School Tribunal. It is nobody's case that the petitioners were noticed by the Tribunal after the matter was remitted back to decide afresh. In that view of the matter, the petitioners are correct in contending that opportunity of hearing was not granted to them.

9] The impugned order is accordingly quashed and set aside. The matter is remitted back to the School Tribunal to decide afresh after giving opportunity of hearing to both the sides. The parties shall appear before the School Tribunal on 26/8/2024. All questions are kept open.

JUDGE

Sumit