



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8849 OF 2017

1. The Secretary,
Rokdeshwar Shikshan Sanstha
A/p Baburdi, Tq. Parner
Dist. Ahmednagar.
 2. The Head Master
Rokdeshwar Madhyamik Vidyalaya
A/p Bburdi, Tq. Parner
Dist. Ahmednagar. .. Petitioners
- versus
1. Education Officer (Secondary)
Zilla Parishad, Ahmednagar.
 2. Smt. Vaishali Dattatraya Dhawale
age 37 years, occ. Household,
r/o At post Ukkalgaon, Tq. Shrigonda
Dist. Ahmednagar. .. Respondents

Mr. Y. V. Kakde, Advocate for the Petitioners.
Mr. S. N. Kendre, AGP for the State.
Mr. M. M. Patil (Beedkar), Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.
DATE : 12th NOVEMBER, 2025.

ORAL JUDGMENT :

1. Heard.
2. Rule. Rule made returnable forthwith.

3. By consent of both sides, taken up for final disposal.

4. This Petition arises out of order passed by learned Member, School Tribunal, Solapur in Misc. Application No. 13/2013.

5. Respondent No. 2 happens to be the wife of one deceased employee of the present Petitioners, who was terminated by the Petitioners from service. The deceased, therefore, approached the School Tribunal by filing Appeal under the provisions of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The said Appeal came to be decided by judgment and order dated 24.11.2010. Termination of the employee dated 15.07.2006 came to be declared as illegal and it was set aside. Further, backwages were directed to be paid from the date of termination till re-instatement to the post of Assistant Teacher. It is an admitted fact that against the said judgment, no proceeding is filed. Subsequently, unfortunately, the employee committed suicide and Respondent No. 2 was required to file Application for execution of the order i.e. recovery of amount of Rs. 8,94,879/-. In the said Application, Petitioners filed say resisting the Application. They denied relationship of employer-employee between the Management and Respondent. They denied

the contentions in the Application. It is also contended that an amount of Rs. 8,94,879/- is already paid to the deceased and there are signatures obtained on the receipt etc.

6. The learned School Tribunal, by impugned order, however, issued certificate dated 30.04.2016 and sent the order to the Civil Judge Senior Division, Ahmednagar for execution of judgment in the Appeal. It is this order which is under challenge in the present Writ Petition.

7. Learned Advocate for Petitioners vehemently argued that the School Tribunal, while passing the order, has not considered the say filed by the Petitioners. There is question of maintainability of the Application raised in the say. It was necessary for the learned Member, School Tribunal, to consider all the contentions raised in the say. Without considering the say, the order came to be passed. He, therefore, prays for quashing and setting aside the order.

8. As against this, learned Advocate Mr. Patil submits that since the School Tribunal does not possess its own machinery to execute the order, it is necessary to send the judgment to the Civil

Court for its execution which is rightly done by the Tribunal. He relied upon the judgment reported in **2001(1) Mh.L.J. 249** in case of Mohammad Salam Anamul Haque vs. S. A. Azmi and others. He, thus, prays for dismissal of the Petition.

9. There is no dispute in the present matter that the Appeal was decided in favour of the deceased i.e. husband of Respondent No. 2. In spite of the order attaining finality, no amount allegedly is paid and therefore, Respondent No. 2 was required to file the Application. The order passed in the Appeal assumes the character of order passed by the Civil Court under Section 2(14) of the Code of Civil Procedure and becomes executable. As rightly submitted that the School Tribunal does not have its own machinery to execute its order, it is therefore, necessary to approach the Civil Court for execution of the order. Paragraph No. 12 of the judgment in the case of Mohammad Salam Anamul Haque (supra) reads as under :-

“12. It is further to be seen here that as observed above this Court has already held that the jurisdiction of the tribunal and the civil court is concurrent. Thus an employee has a choice of either filing a civil suit challenging the action taken against him by the management or filing an appeal before the School Tribunal. After he approaches the civil court and the civil

court finds in his faovur then the order of the civil court would definitely be executable under the provisions of the Code of Civil Procedure. Therefore, it follows that an order made by the School Tribunal is similarly executable under the provisions of the Code of Civil Procedure. If that is not so held then it would lead to anomalous situation that though the jurisdiction of the tribunal and the civil court is concurrent, a litigant who approaches the Civil Court can get the order in his favour executed by the civil court. However if he approaches the tribunal then the order of the tribunal is not so executable. In my opinion, therefore, this is one more reason why it has to be held that an order made by the School Tribunal is executable under the provisions of the Code of Civil Procedure. The remedy of approaching the School Tribunal against the actions of the management mentioned in section 9 of the Act was made available to the employees of the Private School by the legislature by enacting the Act. While passing the Act the legislature was, obviously, aware that the remedy of approaching the civil Court for redressal of the same grievance was available to the employees, therefore, the legislature while keeping the remedy of approaching the civil court, in fact, provided by enacting the Act a more effective remedy to the employees. This intention of the legislature is clear, from the provision of sections 11(3) and 13 of the Act. To say otherwise would amount to attributing an intention to the legislature that it by creation of the

remedy of an appeal to the School Tribunal intended to provide a less effective remedy than the one which was already available. To my mind such an intention cannot be attributed to the legislature. It is clear from the preamble of the Act itself that the concern of the legislature for the security is stability of the services of the employees.”

10. Considering all above facts and in view of the judgment of this Court in the case cited supra, there is no doubt that the School Tribunal has rightly passed the order. No illegality or perversity is pointed out. The only contention is that the say of the Petitioners is not considered. This Court has perused the say. No case is made out that by considering the say any other conclusion can be reached by the Tribunal. No prejudice is shown to have been caused to the Petitioners.

11. During pendency of the Petition, the Petitioners were directed to deposit an amount of Rs. 5,00,000/- in this Court which is already withdrawn by the Respondent. Let that be subject to the outcome of the execution proceeding.

12. Taking over all view, this Court finds that no interference is required in the Petition. Petition, therefore, stands dismissed. Rule discharged.

13. Pending Application, if any, does not survive and stands disposed of.

(KISHORE C. SANT)
Judge

dyb