



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3929 OF 2025

Vitthal Shikshan Prasarak Mandal,
Through Its Secretary
Gopalrao Tukaram Birajdar And Another .. Petitioners

Versus

Madhusudan Sunilrao Purne And Another .. Respondents

Mr. Sachin S. Deshmukh, Advocate for the Petitioners.
Mr. Kishore J. Ghute Patil, Advocate for Respondent No. 1.
Mr. P. D. Patil, AGP for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 26th MARCH, 2025.

P. C. :-

. Heard learned advocate Mr. Deshmukh for the petitioners,
learned advocate Mr. Ghute Patil for respondent No. 1 and learned
A.G.P. for respondent No. 2.

2. A short point involved in this petition is about jurisdiction of the
learned School Tribunal at Aurangabad to entertain and decide the
appeal filed by respondent No. 1 – a teacher. It is the case of the
petitioner – management that, though the respondent No. 1 was
initially appointed in a school at Aurangabad, subsequently, he came to
be transferred to school at Koral, District Osmanabad by order dated

31.12.2020. The proposal was also sent to the respondent No. 2 for approval of the transfer. However, the same came to be refused by the Education Officer vide order dated 27.12.2022. However, the fact remains that the posting of the respondent No. 1 is still at village Koral. The respondent No. 1 has even challenged his transfer by filing Writ Petition No. 11578/2022 which is pending before this Court without any effective orders. When this was the position still the respondent No. 1 filed an appeal before the learned School Tribunal at Aurangabad instead of School Tribunal at Solapur. The petitioners therefore raised an objection to the jurisdiction of the learned School Tribunal by filing application below Exh. 13 in the appeal. The learned Presiding Officer, however, by impugned judgment and order rejected the application holding that the learned Tribunal at Aurangabad has the jurisdiction. The petitioners are thus before this Court.

3. The learned advocate Mr. Deshmukh for the petitioners vehemently argued the petition. He submits that, the facts are not disputed. Since the respondent No. 1 is posted at Koral, the jurisdiction would be with Solapur Tribunal. He points out notification dated 28.03.2023 showing that the Additional School Tribunal, Solapur is having jurisdiction over districts Solapur and Osmanabad. He further submits that, in view of Section 8 of the Maharashtra Employees of

Private Schools (Conditions of Service) Regulation Act, 1977 (for short “the said Act”), the State Government has the power to constitute one or more Tribunals and divide the jurisdiction of each Tribunal in such notification. He thus submits that, the notification is issued under Section 8 of the said Act. The learned Tribunal has committed an error in holding that the learned School Tribunal at Aurangabad has jurisdiction. He thus prays for quashing of the impugned order holding that the appeal is not maintainable on the ground of territorial jurisdiction. The learned advocate for the petitioners relies upon the judgment in the case of the **State of Maharashtra (Deleted) and ors. Vs. Zilla Krida Sankul Karmachari Sanghatana and ors.**¹

4. The learned advocate Mr. Ghute Patil for respondent No. 1 vehemently opposes the petition. His case is that, the respondent No. 1 is appointed in the school at Aurangabad. Though he was transferred, he was posted in a school receiving grants in aid. His services were properly approved by order dated 30.12.2020. He came to be transferred to the school at Koral which is a school not receiving grant in aid and thus the transfer order itself is illegal. Against the order of transfer he immediately made representation to the respondent No. 2 pointing out that, he could not have been transferred to the unaided school. He further submits that, even the school had sent proposal for

¹ 2022(4) Mh.L.J. 167.

approval of transfer and the same came to be rejected by the Education Officer. He submits that, while rejecting the proposal of transfer the Education Officer has clearly given the reasons that, (i) no post of Assistant Teacher is available in the said school, (ii) the Assistant Teacher cannot be posted as Headmaster, (iii) there is no staff pattern approved of the said school for want of information of the schools and (iv) the school is closed as there is no sufficient number of students for the year 2022-2023. He thus submits that, since his transfer was not approved, he tried to join the school at Aurangabad where he was not allowed to join and thus, the cause of action has arisen at Aurangabad. Not allowing to join at Aurangabad amounts to otherwise termination. He submits that, the learned School Tribunal has rightly considered all these aspects and passed the order. He prays for rejection of the writ petition.

5. The learned A.G.P submits that, in view of Section 8 of the said Act, the Government has already issued notification and the jurisdiction is also stated in the said notification. He prays for appropriate order be passed.

6. As already observed, there is no dispute as regards facts of the case. The only thing that needs to be considered is as to whether the respondent No. 1 has any reason to try to join at school at Aurangabad.

In the course of argument the learned advocate for respondent No. 1 accepts that, there is no order passed by the management or there is no direction by the Education Officer directing him to join at Aurangabad. This Court thus finds that, when there is no question of joining at Aurangabad, there is no question of getting the jurisdiction to the Tribunal at Aurangabad.

7. On going through the order it is seen that, the learned School Tribunal in paragraph No. 7 has considered Section 20 of the Code of Civil Procedure (for short "C.P.C."). By considering Section 20 of the C.P.C. it is observed that, the appellant or the party has the flexibility to choose a Court that is most convenient or beneficial for their case. This Court finds that, as Section 8 of the special statutes provides for special power, there is no need to resort to the provision of general Act i.e. C.P.C. Even in Section 20 of the C.P.C. jurisdiction is provided only to Courts as stated in that Section. In any case, it is not the case of the respondent No. 1 that he has approached the learned School Tribunal because the school or the management is carrying business or residing in the jurisdiction within the jurisdiction falling with the learned School Tribunal.

8. This Court finds that, the order passed by the learned Tribunal is against the law. The Court could not have resorted to Section 20 of the

C.P.C. This Court finds that, the impugned order deserves to be quashed and set aside. It is held that, the learned School Tribunal at Aurangabad has no jurisdiction to try and entertain the appeal filed by respondent No. 1. In view of this, this Court allows the writ petition in terms of prayer clause (B). The writ petition stands disposed of.

(KISHORE C. SANT, J.)

PS.B.