



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 5662 OF 2022

THE PRESIDENT JANATA SHIKSHAN PRASARAK MANDAL AND
ANOTHER
VERSUS
SHAIKH SWALEHA ILIYAS AND ANOTHER

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Advocate for the Petitioners : Mr. Vithal H. Dighe
Advocate for Respondent No. 1 : Mr. Amol N. Kakade
AGP for Respondent No. 2-State : Mr. R.B.Dhaware

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 02.12.2025

PER COURT :

1. Heard Mr. Vithal H. Dighe, the learned Counsel for the Petitioners, Mr. Amol N. Kakade, learned Counsel for Respondent No. 1 and Mr. R.B.Dhaware, learned AGP for Respondent No. 2-State.

2. By way of the present petition, the petitioners are challenging the order dated 17.12.2021 passed below Exh. 25 by the learned School Tribunal, Solapur in appeal No. 36 of 2016, whereby the appeal filed by the present respondent No. 1 came to be allowed.

3. Mr. Dighe, learned Counsel for the petitioners submits that a certificate of experience dated 06.04.2009 was placed before the School Tribunal was not as per the record. He invited my attention to the permission granted by the Competent Authority for transfer of the said School in favour of the petitioner and submitted that when the permission itself was granted in the year 2010, no question of permitting respondent No. 1 to join the service before 2010 arises. He further submits that it was

specific case of the petitioners before the School Tribunal that respondent No. 1 was permitted to work as teacher on clock hour basis from the year 2014-2015. He further submits that the earlier School Management was necessary party to the proceeding, but the same was not added as party respondent before the School tribunal and when this issue was raised before the learned Tribunal, it did not give proper findings on that issue.

4. Per Contra, Mr. Kakade, learned Counsel for respondent No. 1 submits that though permission of 5th standard was of the year 2010 but the proposal was of the year 2009-2010 and permission was granted for 11th Standard Class in the year 2010 and due to that respondent No. 1 was permitted to work.

He further points out that respondent No. 1 had placed sufficient record before the learned Tribunal i.e. 1) B.Com mark sheet, 2006, 2) B.Ed. Exam. Mark sheet, 2008, 3) M.Com, Exam mark sheet, 2009, 4) Certificate Dated 06.04.2009, 5) Examiner for H.S.C. Exam. March 2014 and 6) Examiner for H.S.C. Exam. March, 2015 etc., and after considering the same, the learned School Tribunal has rightly considered the matter and allowed the appeal.

5. Having heard the learned Counsel for the respective parties, it is clear that when there was specific point raised about the maintainability of the appeal on the ground that the earlier management with whom respondent No. 1 had worked was not added as party, the same was not properly dealt with by the School Tribunal.

6. Contention about the maintainability ought to have been

considered by the learned Tribunal as the permission was granted in the year 2010 and only on the basis of certificate and subsequent record pertaining to working of respondent No.1, the tribunal allowed the appeal.

7. Thus, in my opinion, the order passed by the learned School Tribunal cannot be sustained in the eyes of law. Therefore, I deem it appropriate to quash and set aside the order dated 17.12.2021 and remand the matter back to the learned School Tribunal.

8. In view thereof, the Writ Petition is partly allowed. The order dated 17.12.2021 passed below Exh. 25 by the learned School Tribunal, Solapur in appeal No. 36 of 2016 quashed and set aside.

9. The matter is remanded to the learned School Tribunal, now at Aurangabad to decide it afresh. The Tribunal to decide the appeal within a period of 6 months from today.

10. It is also clarified that the observations made in this order are limited to the disposal of the present petition and the concerned Tribunal shall decide the matter without being influenced by the observations made herein above. All the issues are kept open.

11. The record received by the Registry be sent back the School Tribunal.

12. The Writ Petition is disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

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