

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.599 OF 2023

Suresh Nivrutti Desai

...Appellant

Versus

1. The Chairman

...Respondents

Shri Shivaji Shikshan Sanstha Karad

Shri Purshottam Juthalal Badiyani (Deceased)

2. The General Secretary

Shri Prakash Pandurang Patil

Shri Shivaji Shikshan Sanstha Karad

Through Prakash Pandurang Patil & Anr.

Mr. Ashish S. Gaikwad a/w Anirudh R Rote, Prerana M. Agavekar & Savita A Gaikwad, for the Appellant.

CORAM: MADHAV J. JAMDAR, J.

DATED: 21 JULY 2025

JUDGMENT:

1. Heard Mr. Gaikwad, learned Counsel appearing for the Appellant.
2. The challenge in this Second Appeal is to the Order dated 30th March 2021 passed by the learned 3rd Joint Civil Judge, Senior Division, Karad in Regular Civil Suit No.342 of 1997 as also to the Judgment and Decree dated 28th March 2022 passed by the learned District Judge-1, Karad in Regular Civil Appeal No.12 of 2021.
3. In the said Regular Civil Suit No.342 of 1997 the Appellant has sought declaration that his transfer made by Defendant No.3-The Headmaster/Principal, Shri Shivaji Vidyalaya Karad on 9th June 1997 is

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arbitrary and for injunction. The learned Trial Court dismissed the said Suit. Regular Civil Appeal No.12 of 2021 filed challenging the dismissal of the said Suit is also dismissed by the impugned Judgment and Decree dated 28th March 2022.

4. The position on record shows that the Appellant was appointed as Assistant Teacher by Appointment Order dated 1st August 1982 issued by the Secretary, Board for Primary and Secondary Education, Shri Shivaji Education Society, Karad. The Appellant was terminated from the service by the Order dated 10th May 1999. The said Order has been challenged by the Appellant before the learned School Tribunal, Kolhapur by filing Appeal No.75 of 1999. The said Appeal No.75 of 1999 has been allowed by the learned Presiding Officer, School Tribunal, Kolhapur Region, Kolhapur by the Judgment and Order dated 25th September 2006.

5. The said Order of the School Tribunal has been challenged by said Shri Shivaji Shikshan Sanstha in this Court by filing Writ Petition No.3057 of 2007. A learned Single Judge by Order dated 20th July 2007 admitted the said Writ Petition and granted interim relief in terms of prayer clause (d). The said prayer clause (d) reads as under :-

“(d) Pending hearing and final disposal of the present Writ Petition, the Impugned Judgment & Order dated 25-9-2006 passed by the Presiding Officer, School Tribunal Kolhapur Region, Kolhapur, in Appeal No. 75 of 1999 may kindly be ordered to be stayed.”

6. It is an admitted position that the said Writ Petition is still pending. In the meanwhile, the Appellant has attained the age of superannuation. Therefore, for all practical purposes the dispute in this Second Appeal concerning the impugned transfer Order dated 9th June 1997 has rendered infructuous.

7. However, Mr. Gaikwad, learned Counsel for the Appellant states that there is reference to the said Order of transfer in the said Order dated 25th September 2006 passed by the learned Presiding Officer, School Tribunal, Kolhapur Region, Kolhapur and therefore the contentions raised in this Second Appeal may have some bearing on the hearing of the said Writ Petition No.3057 of 2007.

8. However, it is required to be noted that the impugned Order of transfer is dated 9th June 1997. The Appellant has long back attained the age of superannuation. Present age of the Appellant is about 70 years. Thus, no useful purpose will be served by consideration of this Second Appeal on merits. However, it is clarified that the Appellant is at liberty to raise contentions which have been raised in this Second Appeal at the hearing of said Writ Petition No.3057 of 2007, if necessary.

9. Accordingly, the Second Appeal is disposed of, subject to the above clarification.

[MADHAV J. JAMDAR, J.]