

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5713 OF 2024

Sachin Madhukar Thakre

...Petitioner

V/s.

The President, Sagar Vidya
Prasarak Shikshan Sanstha and
Ors.

...Respondents

Ms. Jai Kanade with *Ms. Tanaya Patankar i/b. Mr. Rahul Shirgavkar for the Petitioner.*

Mr. Hamid Mulla, AGP for Respondent -State.

Mr. Vinayak Kumbhar with *Mr. Rajendra B. Khaire and Ms. Anita S. Phapale i/b. Ms. Ashwini Bandiwadekar, for Respondent Nos.1 and 2.*

CORAM : SANDEEP V. MARNE, J.

Dated : 10 January 2025.

P.C. :

1) Petition challenges judgment and order dated 27 February 2024 passed by the Presiding Officer, School Tribunal, Nashik, dismissing Appeal No.47 of 2017 filed by the Petitioner.

2) I have heard Ms. Kanade, the learned counsel appearing for the Petitioner, Mr. Kumbhar, the learned counsel appearing

for Respondent Nos.1 and 2 and Mr. Mulla, the learned AGP, appearing for Respondent -State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it appears that the parties were at serious dispute about the exact order of appointment issued to the Petitioner. Petitioner relied upon order of appointment dated 15 June 2012 by which he was shown to have been appointed as Assistant Teacher on pay of Rs.9300/- per month in the pay scale of Rs.9300-34800. The management contended that it never issued appointment order dated 15 June 2012 and questioned its authenticity. Management on the contrary, relied upon appointment order dated 4 July 2012 by which Petitioner was shown to have been appointed on clock hour basis as Assistant Teacher w.e.f. 18 June 2012. Thus, there appears to be clear dispute between the parties about genuineness of the appointment order dated 15 June 2012 in favour of the Petitioner.

4) The entire judgment and order of the School Tribunal does not indicate that the Tribunal has undertaken any enquiry into the above factual dispute. There is no dispute to the position that Petitioner was initially engaged in pursuance of advertisement dated 6 June 2012. In the advertisement two posts of English subject were advertised, one being full time teacher and the second being teacher on clock hour basis. It is Petitioner's contention that his initial engagement was as a full

time teacher. Respondent -management has not placed on record appointment of another full time teacher for English subject in pursuance of selection process conducted vide advertisement dated 6 June 2012.

5) In my view, considering the factual disputes existing between the parties about the exact nature of Petitioner's appointment, the Tribunal ought to have undertaken an in-depth enquiry and after considering the evidence on record answered the issue as to whether Petitioner's initial engagement was on clock hour basis or the same was as a full time teacher.

6) In my view, therefore, the Appeal deserves to be remanded for fresh decision. Accordingly, order dated 27 February 2024 passed by the Presiding Officer, School Tribunal, Nashik, is set aside. Appeal No.47 of 2017 is restored on the file of School Tribunal, Nashik, who shall proceed to decide the same afresh without being influenced by any of the observations made by this Court in the present order. Considering the fact that the Appeal has been pending since 2017, the Tribunal shall accord due priority for its expeditious disposal.

7) With the above observations, Writ Petition is disposed of.

[SANDEEP V. MARNE, J.]