

ORDER BELOW EXH. 21 IN APPEAL NO. 39 / 2023

1. This an application U/Order 1 Rule 10 of CPC by Respondent No. 2 for deleting him from the appeal. According to Respondent No. 2, he is not person who is administering Respondent No. 3 school, neither he has passed any order dismissing or removing appellant from her services. Therefore it is not the management within the meaning of Section 2(12) of the MEPS Act, 1977. Hence presence of Respondent No. 2 is not necessary in this appeal. He is neither formal nor necessary party in this appeal. Therefore it has been prayed by Respondent no. 2 that his name be deleted from the appeal.

2. Appellant filed reply at Exh. 23 wherein it is contended by him that Dy. Director of Education has given recognition to Thane Police Welfare which was formerly known as Thane Police Sports Association and the chairperson of the said association is Commissioner of Police. There is memorandum of understanding dt. 21.05.2006 between Respondent Nos. 1 and 2 for 15 years. Respondent No. 1 is only conducting only entity and not the management of the school. The right of termination is vested with Respondent No. 2 only. Respondent No. 2 is real management. Respondent No. 1 is a agent of Respondent No. 2. Agent does not stay into the shoe of the owner. On the basis of MOU Respondent No. 1 cannot assume the management of Respondent No. 3 school. Therefore the Respondent No. 2 is proper and necessary party. By relying on these contentions appellant prayed for rejection of the application.

3. Respondent No. 2 filed rejoinder at Exh. 29 wherein Respondent No. 2 reiterated the same grounds taken for his deletion in the

application at Exh. 21.

4. From the application of Respondent No. 2 and reply of appellant, it can be seen that there is dispute as to who is real management. According to appellant, memorandum of understanding dt. 21.05.2006 does not give Respondent No. 1 rights of management to administer Respondent No. 3 school and therefore it does not have right to terminate the appellant. Therefore this dispute of facts has to be adjudicated on merits. For that purpose the presence of Respondent No. 2 in the appeal is necessary. The said dispute/issue cannot be decided in this application, it shall require full-fledged hearing. Considering the scenario Id. Advocate for the appellant Neeraj Prajapati, stated that he does not want to proceed with this application. His statement was taken on Exh. 21. However inspite of this statement, I have on merits come to the conclusion that this application cannot be allowed. Therefore this application is rejected.

08.08.2023.

Prasad N. Deshpande
Presiding Officer
School Tribunal Mumbai