

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8580 OF 2003

Dnyansadhana And Anr. ...Petitioners

NAVNATH
SITARAM
WAGHMARE

Versus

Shankarrao Bhivasan Mahajan And Ors. ...Respondents

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WITH
CIVIL APPLICATION NO.2475 OF 2004
WITH
CIVIL APPLICATION NO. 1195 OF 2012
IN
WRIT PETITION NO. 8580 OF 2003

Shankarrao Bhivasan Mahajan ...Applicant

IN THE MATTER BETWEEN

Dnyansadhana And Anr. ...Petitioners

Versus

Shankarrao Bhivasan Mahajan And Ors. ...Respondents

Mr. Ram Apte, Senior Advocate a/w Mr. M.S. Lagu and Mr. Sagar Patil
for the Petitioners.

Mr. Shaikh Nasir Masih a/w Shaikh Saad Amin for the Respondent
No.1.

Smt. A.A. Nadkarni, AGP for the Respondent /State.

CORAM : M.M. SATHAYE, J.
DATE : 07th OCTOBER, 2026

P.C. :

1. Heard learned counsel for the parties and perused the
impugned order. At the outset, leave is granted to the Petitioners to

amend the description of Respondent No.3 to make it the 'Deputy Director of Education, Mumbai Region, Mumbai' as admittedly, the said authority is now the concerned Authority. Amendment be carried out during the course of the day.

2. By this petition, Petitioners (Management and College) are challenging the judgment and order dated 08.07.2003 passed by President, One Member Grievance Committee for entertaining complaints of Shikshan Sevak (Place : Mumbai) in Appeal No. 37 of 2002. By the said impugned order, the appeal filed by the Respondent No.1 was allowed thereby setting aside termination of Respondent No.1 with effect from 26.03.2002 and directing the Petitioners to reinstate Respondent No.1 in service as Shikshan Sevak and further directing the Petitioners to pay salary of the Respondent No. 1 to the extent of 30% from the date of termination till reinstatement. The Deputy Director of Education was also directed to grant approval to appointment of Respondent No.1 as Shikshan Sevak and release funds, except funds from the date of termination till reinstatement. The Grievance Committee also terminated the appointment of present Respondent No.2- Smt. Pallavi Deshpande, who was appointed in the place of Respondent No.1.

3. Learned senior Advocate for the Petitioners submitted that the appointment of Respondent No.1 was purely on temporary basis and was not made following necessary procedure because pursuant to the advertisement issued in July 2000, he did not appear for the interview and it is only after one of the existing teacher (Mr. Ghumatkar) got terminated, the Respondent No. 1 had applied for being appointed. He submitted that the appointment of Respondent No. 1 in August 2000 was a mid-term appointment which was ad-hoc and purely temporary as there was no time to follow the procedure. He further submitted that

Respondent No. 1 was informed that his appointment has come to an end in the year 2000-2001. He further submitted that Petitioners again issued advertisement in June 2001 for appointment of regular candidate. He submitted that Respondent No.1 participated in the process of selection; however, he was rejected by the selection committee. He further submitted that thereafter Respondent No. 1 has joined some other institute; however, after some time, he left the said job and again contacted the Petitioners requesting for appointment, when he was appointed on clock hour basis. He further submitted that the work of Respondent No. 1 was not satisfactory and there were complaints, and ultimately Respondent No. 1 was terminated on 26.03.2002.

4. On the other hand, learned counsel for Respondent No.1 strongly opposed the case on merits. He submitted that he had filed Writ Petition No. 2086 of 2002 challenging the illegal conversion of status of Respondent No. 1 from the post of Shikshan Sevak post to the of CHB Lecturer. He further submitted that contention of Petitioner that Respondent No. 1 was appointed on the post of Mr. Ghumatkar (on ad-hoc temporary basis) is false and misleading. He submitted that Respondent No.1 belongs to OBC category and was rightly and regularly appointed on the post. He further submitted that Respondent No.1 has a logbook, which shows that he was allotted full workload. He also submitted that from the documents produced by Respondent No.2 - (Smt. Pallavi Deshpande), it can be seen that her appointment was in unaided division. He further submitted that so called receipt dated 04.09.2001 relied upon by the Petitioner-Management (about alleged payment to Respondent No.1) is forged one and does not bear the signature of Respondent No.1. He asserted that the impugned order is correct, legal and valid.

5. It is not disputed that the Respondent No. 1 being aggrieved by his termination dated 26.03.2002, had initially filed Writ Petition No. 2086 of 2002, however, withdrew the same and filed Appeal No. 37 of 2002 before the Grievance Committee. It is also not disputed that the Petitioners/Management appeared before the Grievance Committee and contested the appeal. It is also not disputed that by the impugned order the Grievance Committee has passed an order as explained above.

6. Learned Senior Advocate for the Petitioner relied on the judgment of the **Secretary Sri. A. P. D. Jain Pathshala and others Vs. Shivaji Bhagwat More & Ors** in Civil Appeal No. 4988 of 2011 and in Civil Appeal No. 4989 of 2011 dated 04.07.2011 of Hon'ble Supreme Court (Copy downloaded from the website of the Supreme Court). He submitted that during pendency of the petition, the decision of the Grievance Committee has been held as not enforceable and its stature has been reduced to mere recommendation that can be made to the Education Department. He therefore submitted that in any case, the impugned order cannot be enforced and it is only the State Government that can consider it as a recommendation.

7. Learned counsel for the Respondent No. 1 has pointed out from Paragraph No. 21 to 23 of the above judgment that the State Government can consider the order of the Grievance Committee as an opinion or recommendation and can take appropriate action against the Management. He also relied on an order dated 25.03.2025 passed by the Division Bench of this Court in Writ Petition No. 1621 of 2003, to which this Court (M.M. Sathaye, J.) was also party. He pointed out that in similar circumstances, this Court has directed the concerned Education Authority to consider the decision given Grievance Committee and take appropriate steps/action.

8. I have considered the submissions and perused the judgment

of **Secretary Sri. A. P. D. Jain Pathshala (Supra)**. By the said Judgment, Hon'ble Supreme Court has held as under :

"21. If a Grievance Committee opines that the termination or cancellation of appointment of a Shikshan Sevak was bad, the State Government may consider such opinion/recommendation and if it decides to accept it, take appropriate action by directing the school to take back the Shikshan Sevak, and if the school fails to comply, take such action as is permissible including stoppage of the grant. An opinion by the Grievance Committee that the termination of the services of a Shikshan Sevak is illegal can not however have the effect of either reinstating the employee into service, nor deemed to be a declaration that the Shikshan Sevak continues to be an employee of school. Even if a Shikshan Seyak is wrongly removed, the department could only direct the school to take him back into service and if it does not comply, take action permissible in law for disobedience of its directions.

22. Therefore the decision of the committee dated 28.7.2006 is not an enforceable or executable order but only a recommendation that can be made the basis by the Education Department to issue appropriate directions. It is needless to add that persons aggrieved by such directions of the state government will be entitled to challenge such directions either before the civil court or in a writ proceedings.

23. In view of the above, the appeals are allowed and the orders dated 2.5.2008 and 5.8.2008, are set aside. The order of the Grievance Committee is treated as a recommendation rendered for the benefit of the Education Department which can on the basis of the said opinion take appropriate action in

accordance with law. It is also open to the Shikshan Sevak to seek appropriate remedy if he is aggrieved by his termination, in accordance with law."

(emphasis supplied)

9. In the light of aforesaid binding law laid down by the Hon'ble Supreme Court, which is followed by the Division Bench of this Court in order dated 25.03.2025, in my view, the Respondent No. 3 (Deputy Director of Education, Mumbai) can be directed to consider the case.

10. Accordingly, the writ petition is disposed of by passing following order:

(A) Respondent No. 2 - Deputy Director of Education, Mumbai Region, Mumbai, shall consider the recommendations made in the impugned order dated 08.07.2003 in accordance with decision of the Supreme Court in **Secretary Sri. A. P. D. Jain Pathshala (Supra)** and take further steps accordingly. To facilitate such consideration, opportunity shall be given to the Petitioners as well as Respondent No. 1 of being heard.

(B) To facilitate such consideration, as aforesaid, parties are directed to appear before Deputy Director of Education, Mumbai Region, Mumbai on 14.10.2026 at 11:00 a.m.

(C) Decision in accordance with law be taken within 8 weeks from that day. It is clarified that all aspects on merits, including rival contentions of parties about legality of appointment, are kept open.

D) Additionally, liberty as contained in paragraph 22 & 23 of the Judgment of Supreme Court in **Secretary Sri. A. P. D. Jain Pathshala (Supra)** is also granted to parties.

11. At this stage, learned senior Advocate for the Petitioner seeks continuation of the interim relief granted by this Court. Record indicates that long time ago, on 08.03.2004 when the petition was admitted, operation of the impugned order was stayed subject to condition of Petitioners depositing arrears of backwages in this Court as per impugned order of Grievance Committee. Admittedly, the Petitioners have deposited the said amount in this Court. In that view of the matter, it is further directed that during pendency of the consideration as ordered above before the Deputy Director, the impugned order shall remain stayed.

12. Depending on the outcome of the decision of the Deputy Director, parties are at liberty to move for further order in respect of amount deposited.

13. **Rule is disposed of in above terms. No orders as to costs.** In view of the disposal of the writ petition, pending applications are also disposed of.

14. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)