

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11241 OF 2022

Shri. Ishwarsing Rajendrasing Rajput]
Age : 34 years, Occupation : Service]
R/o. Room No.1312, Hanuman Colony,]
Gali No.1, AasheleGaon, Ulhasnagar,]
District-Thane 421004.].....Petitioner

Versus

**1. The Commissioner, Municipal Corporation of]
Greater Mumbai]
Near CST Railway Station, Mumbai-400001.]**

**1a. The Office of Dy. Commissioner]
(Education)]
F/South ward, Office of B.M.C. Building,]
Dr. Ambedkar Road & Jagannath Bhatnagar]
Junction, Parel, Mumbai 400012.].....Respondents**

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Mr. Chadrashekhar S. Patil, for the Petitioner.

Mr. Santosh Parad, for the Respondent No.1-MCGM.

Ms. Veena Sonawane, Admin Officer, 'N Ward, present in Court.

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**CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.**

DATE : 17th SEPTEMBER 2026

JUDGMENT [PER SANDESH D. PATIL, J.] :-

1. By the present Writ Petition, the Petitioner is seeking quashing and setting aside of the impugned order dated 14th July 2014.

2. By the impugned order dated 14 July 2014 passed by the Respondent-Corporation the Petitioner was terminated from the services. The Petitioner in this case was a teacher appointed in the BMC school managed by Respondent No. 1-Municipal Corporation of Greater Mumbai. The Petitioner was appointed on 24th June, 2009 in Nehru Nagar Municipal Corporation Hindi School, 'S Ward', Kanjurmarg, vide an Appointment Order dated 23rd June, 2009. The said order indicates that the order was for a period of 3 years. The order is at 'Exhibit A' to the Petition.

3. It is the case of the Petitioner that during the period of probation, one Mr. Govind Kanojia, who was the father of the student studying in his school, filed an F.I.R against the Petitioner under the provisions of Sections 506(II), 323 and 354 of Indian Penal Code (IPC) on 9th November, 2009. During pendency of the criminal case, the Respondent commenced the preliminary inquiry against the Petitioner on 2nd September 2011 and the charge sheet was served on the given date upon the Petitioner. The Petitioner was suspended from work on 1st July, 2011. The Petitioner therefore had filed a Writ Petition in this court bearing No. 10804 of 2013, seeking revocation of his suspension. During pendency of this Writ Petition, the

departmental inquiry concluded. The Inquiry Officer had found that the Petitioner had committed grave misconduct, and therefore the services of the Petitioner were terminated.

4. The Petitioner had, on 4th January, 2022, withdrawn the Writ Petition No. 10804 of 2013, which was filed by him. The Petitioner thereafter filed the present Writ Petition.

5. The learned Counsel for the Petitioner argued that the action taken on the basis of the oral information received by the Headmistress is *per se* illegal. He submitted that there is inconsistency between the version stated in the F.I.R., the version stated by the victim, and the version stated by the other witnesses. He argued that no Complaint was filed or produced on record to show that the offence has been committed by the Petitioner at the residence, he argued that the story was concocted and that the victim was not cross-examined. He argued that there is a Criminal Revision Application No.62 of 2016, which is filed by the Petitioner against the order of conviction. He contended that the Petitioner had challenged the Show Cause Notice in Writ Petition No. 10804 of 2013, during pendency of the said Writ Petition, the impugned order was passed, and the departmental proceedings ought not to have

been conducted, especially in light of the fact that the Petitioner's Writ Petition was pending in this court.

6. The learned Counsel appearing for the respondent, on the other hand, strenuously objected the Petition. He submitted that the offence is very serious in nature and that the victim was the student of Petitioner and was studying in the 7th standard in school. He tendered across the Bar the judgment and order passed by the 53rd Metropolitan Magistrates Court, Mumbai, on 7th October, 2014, whereby the Petitioner was convicted of the offence punishable under the provisions of Section 354, 323, 363, 506(II) of the Indian Penal Code (**IPC**). He submitted that only because a revision against the said sentence is pending would not *ipso facto* mean that the conviction is stayed. He submitted that, the Petitioner was appointed on probation basis vide order dated 23rd June, 2009 in the school and he had committed the offence immediately within 6 months thereof i.e. on 8th November, 2009. He submitted that the Petitioner was granted due opportunity of being heard. A full-fledged departmental inquiry was conducted and upon conclusion of the said inquiry, the Petitioner was terminated from the service.

7. He laid much stress on the order of termination, which was passed on 14th July, 2014 and that the present Writ Petition filed on 26th August, 2022. He submitted that there was a gross delay in filing the Writ Petition and this Petition deserves to be quashed and set aside only on this ground.

8. Heard the learned Counsel appearing for the respective parties and perused the documents on record. The Petitioner was appointed as a teacher in a Municipal School run by Respondent No.1. The appointment was made on 23rd June, 2009 and immediately within a period of 6 months, the Petitioner committed the offence on 8th November, 2009. The Petitioner was appointed on probation basis. The allegations were very serious in nature, inasmuch as the offence is alleged to have been committed against the victim who happened to be his student. We have perused the order passed by the Trial Court in proceedings bearing No. 654/PW/2009 dated 7th October, 2014. The observations made in the said judgment while convicting the Petitioner shows how serious the offence is. We are however not swayed away by the findings of the Criminal Court.

9. The Petitioner was granted a full-fledged hearing while the departmental inquiry was conducted. It is not the case of the

Petitioner that there was any breach of Principles of Natural Justice. The Petitioner was given a Show Cause Notice, which was challenged by him by filing a Writ Petition No. 10804 of 2013. The Petitioner could not obtain any relief till the year 2022 and later withdrew the Petition on the ground that, during the pendency of the Petition, the services of the Petitioner were terminated. The impugned order terminating the services of the Petitioner was passed on 14th July, 2014. The Petitioner, however, preferred the present Petition on 26th August, 2022.

10. The reasons assigned by the Petitioner namely that, he was a layman and was under a wrong impression that the Petition challenging the Show Cause Notice is pending and until the same is decided, no further or separate proceedings were required to challenge the impugned order dated 14th July, 2014. This explanation of the Petitioner only highlights the proposition that the Petitioner was ignorant about the law. It is a well settled position of law that '*Ignorantia juris non excusat*'- ignorance of law is not an excuse. It is not the contention of the Petitioner that he had no knowledge of the passing of the order dated 14th July, 2014, which is impugned in the present Petition. The contention that the Petitioner was having no

knowledge that a fresh Petition was required to be filed challenging the impugned order dated 14th July, 2014 cannot be accepted in law. The Supreme Court in the Judgment of ***Swadeshi Cotton Mills Co. Ltd. Vs. Government of U.P. and Ors.***¹ held as under:

“.....Every individual is deemed to know the law of the land. The courts merely interpret the law and do not make law. Ignorance of law is not an excuse for not taking appropriate steps within limitation. Therefore the argument that the appellant did not know the true legal position is not one that can be accepted in law.....”.

11. The Petition deserves to be dismissed on the grounds of delays and laches itself. We have also gone through the impugned order. The reasons which are assigned in the impugned order cannot be termed as perverse. It is the case of the Petitioner that the reasons assigned in the Order of Departmental Inquiry were inadequate and that the punishment imposed was shockingly disproportionate.

12. Fair opportunity was given to the Petitioner. It is settled law that this Court while exercising the Writ Jurisdiction, cannot sit in appeal over the findings of the departmental inquiry. Unless and until it is shown that the said findings were perverse or shocking to the conscience, this court would not substitute its view to that of the

1 (1975) 4 Supreme Court Cases 378

Inquiry Committee. The Supreme Court in the Judgment of ***State of Andhra Pradesh and Ors. Vs. Sree Rama Rao***² held as under:

“.....The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.....”.

2 1963 SCC OnLine SC 6

13. In this view of the matter, this Court does not find it fit to exercise its jurisdiction in favor of the Petitioner. For the reasons mentioned above, the Writ Petition No.11241 of 2022 is dismissed.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)