



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 36426 OF 2016 (S-DIS)

BETWEEN:

P S SHIVAKUMARIAH
S/O LATE P G SIDDIAH,
AGED ABOUT 61 YEARS
ASSISTANT MASTER,
NINGAPPA BASAPPA KABBUR HIGH SCHOOL,
DEVIHOSUR - 581 110
HAVERI TALUK AND DIST

...PETITIONER

(BY SRI. SIDDHARTH B. MUCHANDI, ADVOCATE)

AND:

1. THE MANAGEMENT OF TARALABALU
JAGADGURU EDUCATION SOCIETY (R)
SIRIGERE - 577 541
CHITRADURGA TALUK AND DISTRICT
REPRESENTED BY ITS PRESIDENT
2. SRI SRI SRI DR SHIVAMURTHY
SHIVACHARYA MAHASWAMIGALU
PRESIDENT,
SRI TARALABALU JAGADGURU EDUCATION SOCIETY
(R)
SIRIGERE,
CHITRADURGA TALUK AND DISTRICT - 577 501

Digitally
signed by
SHILPABAI S
Location
HIGH
COURT OF
KARNATAKA





3. ADMINISTRATIVE OFFICER
SRI TARALABALU JAGADGURU EDUCATION SOCIETY
(R)
SIRIGERE,
CHITRADURGA TALUK AND DISTRICT

4. THE DIRECTOR OF PUBLIC INSTRUCTIONS
SECONDARY EDUCATION,
DEPARTMENT OF EDUCATION,
GOVERNMENT OF KARNATAKA,
NEW PUBLIC OFFICES,
NRUPATHUNGA ROAD,
BENGALURU-1

5. SRI J CHENNAVEERAPPA
RETIRED DISTRICT AND SESSIONS JUDGE AND
ENQUIRY OFFICER,
NO.350, III MAIN, (ADJACENT TO OLD POST OFFICE)
M.C.C."B"BLOCK, DAVANAGERE - 577 001

...RESPONDENTS

(BY SRI. G. RAMESH NAIK, AGA FOR R4
MS. MONIKA H.B., ADVOCATE FOR
SRI. ASHOK G.V., ADVOCATE FOR
SRI. G.K.V. MURTHY, ADVOCATE AND
MS. SAHANA B.V., ADVOCATE FOR R1, R2 AND R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
PASSED BY THE R-1 DTD 7.5.2004 AT ANNEXURE-A
CONFIRMED IN JUDGMENT AND DECREE DTD 23.3.2016
PASSED BY THE EDUCATION APPELLATE TRIBUNAL,
BANGALORE (CCH-11) IN M.A.(EAT) NO.1/2009 VIDE ANNEX-
B.



THIS PETITION, COMING ON FOR PRELIMINARY HEARING
IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL ORDER

1. This petition is filed challenging the judgment dated 23.03.2016 passed in M.A. (EAT) No.1 of 2009 by the Educational Appellate Tribunal, Bangalore (CCH-11) vide Annexure -B and also order passed by respondent No. 1 dated 07.05.2004 vide Annexure A.
2. Brief facts leading rise to the filing of this petition are as follows:
3. On 25.08.1980, the petitioner was appointed as an Assistant Master at Doddaladamara High School, Chundhankppe, Bangalore South Taluk, by respondents No.1 to 3. The petitioner married Smt. A.S. Prema on 07.06.1984. The petitioner was transferred to Nanjundeshwar High School, Belur, Hassan in June 1987. On 24.11.1988, the petitioner



was served with a memo stating that he had allegedly got into second marriage with Smt. Sujatha, therefore he shall not report to the duty until further orders.

4. On 23.09.1989, respondent No. 3 issued a memo to the petitioner intimating him about the allegation of bigamous marriage and directed the petitioner to appear before the inquiry committee on 04.10.1989. On 03.11.1993, the petitioner challenged the memo dated 24.11.1988 before the Educational Appellate Tribunal at Chitradurga in M.A.No.48 of 1989, wherein the memo was set aside and the petitioner was ordered to be reinstated.
5. On 18.12.1995, the enquiry officer, Dr.M.G. Eshwarappa, issued a notice to the petitioner regarding initiation of enquiry regarding the alleged bigamy and intimated him to appear before the enquiry officer. The petitioner issued a legal notice denying all the allegations made against him in the



notice dated 18.12.1995. An order came to be passed in CRP No. 3544 of 1993 by this Court, directing the petitioner to reinstate with all consequential benefits vide order dated 13.08.1996.

6. On 29.10.1997, as arrears were not deposited, a contempt petition was filed in CCC No. 1619 of 1997 and respondent No.2 acting as President of respondent No.1, deposited the arrears of salary amounting to Rs.2,09,185/-. In June 2001, the petitioner was transferred from STS High School, Toolahalli, Bellary to Lingappa Basappa, Kabbur High School, Devihosur, Haveri. On 01.10.2002, enquiry was initiated against the petitioner and enquiry officer was appointed. The enquiry officer has issued a notice to the petitioner. The petitioner replied to the notice raising several objections, denying the allegations made against the petitioner. The management cancelled the appointment of the then enquiry officer, and respondent No.3 issued another



memo alleging the same charge against the petitioner and appointed respondent No.5 as an enquiry officer. Respondent No. 5 has issued a show cause notice along with the charge memo. The petitioner has replied to the charge memo. Respondent No. 1 is the enquiry officer after holding an enquiry against the petitioner has submitted a report and he has opined that the charges levelled against the petitioner are proved and has forwarded the report to the disciplinary authority. The disciplinary authority issued a second show cause notice along with the findings of the enquiry officer. The petitioner did not reply to the second show cause notice. The appointing authority has passed an order of dismissal from service. The petitioner aggrieved by the order of punishment approached the Educational Appellate Tribunal, Bengaluru in M.A(EAT) No.1 of 2009.



7. Learned counsel for respondent No.3 filed statement of objections contending that the judgment and order passed by the Tribunal is not sustainable in law and on facts and denied the averments made in the writ petition. It is contended that the judgment and order of tribunal is liable to be set aside and the respondents be directed to reinstate the petitioner to the post held by him and to pay back salary in full and allowances is baseless and unsubstantiated and the petitioner is put to strict proof of the same. Hence, prays to dismiss the writ petition.
8. Learned counsel for respondent No.2 adopted the averments of statement of objections filed by respondent No.3, and prays to dismiss the writ petition.
9. Learned Additional Government Advocate supports the judgment passed by the tribunal and prays to dismiss the writ petition.



10. The Educational Appellate Tribunal recorded the evidence of the parties. The petitioner examined himself as PW.1 and marked 20 documents as Exhibit P1 to Exhibit P20. The respondent No.3 examined its officer as RW.1 and got marked 10 documents as Exhibit R1 to R10. The Educational Appellate Tribunal, after recording the evidence, hearing both sides and assessing the verbal and documentary evidence, dismissed the appeal vide judgment dated 23.03.2016.
11. The petitioner, aggrieved by the judgment passed in M.A(EAT) No. 1 of 2009 dated 23.03.2016, filed this writ petition.
12. Heard the arguments of the learned counsel for the petitioner, learned counsel for respondents No.1 to 3 and learned Government Advocate for respondent No.4.



13. Learned counsel for the petitioner submits that respondents No.1 to 3 have not placed any records to establish that the petitioner has performed second marriage. He also submits that as per Section 7 of the Hindu Marriage Act, 1955, the necessary ceremonies has to be proved. Admittedly, the management has not adduced any evidence to establish that the petitioner has got performed second marriage with Smt. B. Sujatha. Thus, respondents No.1 to 3 have failed to prove the charges leveled against the petitioner. The inquiry officer, without considering the said aspect, has opined that the charges are proved against the petitioner. The findings recorded by the inquiry officer is without any basis. He also submits that the said aspect has not been properly considered by the Educational Appellate Tribunal.
14. To buttress his arguments, he has placed reliance on the judgment of the Hon'ble Apex Court in the case



of ***Dolly Rani vs. Manish Kumar Chanchal***¹ and
P.V.Mahadevan vs. M.D., T.N.Housing Board².

He also submits that the enquiry proceedings were pending for more than 14 years, and there is a delay in concluding the proceedings. Hence, on these grounds, he prays to allow the petition.

15. *Per contra*, learned counsel Ms.Monika H.B., for respondents No. 1 to 3 submits that the wife of the petitioner Smt. Prema has issued a legal notice and also submitted a complaint before the respondents No.1 to 3 alleging that the petitioner has performed second marriage during the subsistence of a first marriage. The said marriage is void as per Section 11 of the Hindu Marriage Act, 1955. It is also contended that a show cause notice was issued to the petitioner and a criminal case was also registered against the petitioner. She submits that no sane wife will lodge the complaint against her husband making

¹ 2025 (2) SCC 587

² 2005 (6) SCC 636



allegation of bigamy. She also submits that the petitioner did not reply to the notice issued by Smt. Prema. The petitioner has remained silent.

16. To buttress her arguments, she has placed a reliance on the judgment of this Court in the case of ***B.C. Lokesh vs. Sri. N.A. Pandurangaiah Shetty*** in Criminal Revision petition No.170 of 2017 dated 14.11.2019, wherein this Court placed reliance on the judgment of the Co-ordinate Bench of this Court reported in 1984(1) KLC page No.265.

17. Further, learned counsel also placed reliance on the judgments as follows:

- Devendra Pratap Narain Rai Sharma Vs. State of UP³
- Anand Narain Shukla vs. State of Madhya Pradesh⁴
- RS Saini vs. State of Punjab and others ⁵
- Khursheed Ahmad Khan Vs. State of UP ⁶

³ 1961 SCC Online SC90

⁴ (1980) 1 SCC 252

⁵ (1999) 8 SCC 90



- Bank of India and another Vs. Degala Suryanarayana⁷

18. Further, she submits that action of the petitioner in performing second marriage is in violation of Rule 25(2) of the Karnataka Educational Institutions (Recruitment and Terms and conditions of Service of Employees, in Private Aided Primary and Secondary Education Institution) Rule 1999. The charges levelled against the petitioner are serious in nature and the respondents have provided sufficient opportunity to the petitioner. Thus, the order of punishment is just and proper. Hence, the Educational Appellate Tribunal was justified in dismissing the appeal. Hence, on these grounds, she prays to dismiss the writ petition.

19. Perused the records, and considered the submissions of the learned counsel for the parties.

⁶ (2015) 8 SCC 439

⁷ (1999) 5 SCC762



20. It is an undisputed fact that the petitioner was working as Assistant Master in 1980 and he transferred from place to place working as an Assistant Master. He married to Smt. A.S. Prema on 07.06.1984. It is alleged that the petitioner entered into bigamy marriage with another women on 26.12.1987, while his first wife is still alive. Aggrieved by the marriage of the petitioner with Smt. Sujata, first wife Smt. Prema and her relatives approached respondents No.1 to 3 and served several notices to the Administrative officer to inspect. The petitioner failed to offer his explanation, but he tried to evade situation by going on long leave.

21. The Administrative officer of respondents No.1 to 3 vide communication dated 24.11.1988 wrote to Head Master of STS High School, Toolahalli, where the petitioner was working to get his explanation and forward the same to the office. The petitioner has



failed to reply to the said notice. The petitioner went on leave from 02.12.1988 to 31.12.1988 on medical grounds. The petitioner vide communication dated 28.12.1988 addressed to the Administrative officer admitting the fact that he has his first wife Smt. Prema and a son born through her and also admitted the allegation that he has entered into a second marriage with Smt. Sujatha of Chikkalur village in Bangalore District and the said marriage was registered in the office of Sub-Registrar in Tiptur. In another letter dated 02.01.1989 addressed to the Administrative Officer and sent to the Headmaster that the petitioner has repeated the same facts.

22. The first wife of the petitioner Smt. Prema, got issued a lawyer notice to the petitioner against unlawful marriage with Smt. Sujatha and also filed a private complaint against the petitioner for the offences punishable under Section 494 of the Indian Penal Code. The said case was not pursued by



Smt. Prema and said private complaint came to be dismissed for non-prosecution.

23. On the basis of the information, the respondent management decided to hold an enquiry against the petitioner. The inquiry officer was appointed. The said enquiry officer has conducted an inquiry. Initially, the petitioner did not participate in the inquiry. The inquiry officer submitted a report. The petitioner aggrieved with the findings recorded by the inquiry officer approached the Educational Appellate Tribunal.

24. The petitioner aggrieved by the charge memo, approached the Educational Appellate Tribunal in M.A. No.48/1989. The charge memo was set aside by the Appellate Tribunal and directed the petitioner to be reinstated. Again, the inquiry was initiated. The inquiry officer was appointed and he issued a charge memo. The petitioner replied to the charge memo raising several grounds in the reply. The enquiry



officer after holding an enquiry has submitted a report along with his findings, wherein he has recorded a finding that the charges leveled against the petitioner are proved.

25. The appointing authority, after receipt of enquiry report, issued a second show cause notice along with enquiry report calling for an explanation from the petitioner. The petitioner did not reply to the show cause notice. The appointing authority passed an order of dismissal from service dated 07.05.2004. The petitioner aggrieved by the dismissal from service preferred an appeal before the Educational Appellate Tribunal. The petitioner examined himself as PW.1 and got marked documents Exhibit P1 to Exhibit P20. The petitioner himself has admitted that he had performed a second marriage with Smt. Sujatha. The said admission is sufficient to hold that the charges leveled against the petitioner are proved.



26. Further, as per Section 25(2) of the Karnataka Educational Institutions (Recruitment and Terms and conditions of Service of Employees, in Private Aided Primary and Secondary Education Institution) Rule 1999, which reads as follows:

“ Section 25(2): The following also constitute a misconduct. (r) Contracting another marriage without obtaining permission of the management or entering into a bigamous marriage against the personal law of employee”.

27. Since the charge of bigamy against the petitioner is proved beyond a doubt and is guilt of violating the above provision of the Code of Conduct. The appointing authority considering the entire report submitted by the enquiry officer and the petitioner has not denied the findings recorded by the enquiry officer and his own admission itself is sufficient to prove that the charges leveled against the petitioner are proved.



28. In rebuttal, the management examined its officer as RW.1 and he has deposed that the petitioner was working in respondent No.1 institution and he performed a second marriage during the subsistence of a first marriage. To substantiate their defense, the respondents have produced a marriage invitation card of the petitioner with Smt. Prema marked as Exhibit R4 and Exhibit R5 is the marriage certificate of the petitioner with Smt. Sujatha, which was registered in the Office of Registrar of Marriage, Tiptur. Exhibit R6 is the certified copy of the photo sketch which clearly discloses that the petitioner and Smt. Sujatha are residing together as a husband and wife. The respondents have also produced a copy of the notice sent by first wife to the administrative officer and enquiry officer making an allegation against the petitioner, alleging that the petitioner has performed second marriage with Smt. Sujatha. The



petitioner did not reply to the legal notice that is marked as Exhibit R8.

29. In the absence of non-replying to the notice issued by Smt. Prema, it amounts to silence indicating the admission of the truth of notice averment. In order to substantiate the said fact, this Court in ***B.C.Lokesh vs. N. A. Pandurangaiah Shetty*** in Crl.R P. No. 170 of 2017 disposed of on 14.11.2019, held that non reply to notice issued by wife prior to initiating enquiry proceedings. Does his silence indicate admission of the truth of the notice averment.

30. Admittedly, the petitioner has not replied to Exhibit R8- Legal notice. Thus, the Tribunal, considering the entire material on record, was justified in passing the impugned judgment. The learned counsel for the petitioner has relied on the judgment passed by the Hon'ble Apex Court in the case of ***Dolly Rani vs. Mahesh Kumar Chanchal*** reported in **2025 (2)**



SCC 587. The Hon'ble Apex Court does not dispute the proposition that, to prove a marriage under Section 7 of the Hindu Marriage Act, necessary ceremonies have to be proved.

31. Admittedly, in the instant case the petitioner himself has admitted that he has performed a second marriage with Smt. Sujatha. In view of the admission made by the petitioner, the judgment relied upon by the learned counsel for the petitioner is not applicable.

32. Further, he has also placed a reliance on the judgment of the Hon'ble Apex Court in the case of ***Santi Deb Berma vs. Kanchan Prava Devi*** reported in ***1991 Supp (2) SCC 616***. The principle laid down that the validity of second marriage, including the performance of essential ceremonies of a valid marriage, cannot be deduced from letters or oral evidence of the accused and the second wife living as husband and wife.



33. As observed above, the petitioner himself has admitted that he has performed second marriage and the said judgment is not applicable to the case on hand. Further, he has also placed a reliance on the judgment of the Hon'ble Apex Court in the case of ***P.V. Mahadevan vs. MD.T.N.Housing Board*** reported in ***(2005) 6 SCC 636*** that is inordinate delay of 10 years in initiating a departmental proceedings against the petitioner is liable to be quashed.
34. Admittedly, the appointing authority has initiated an enquiry, they issued a charge memo on 24.11.1988 and the said memo was challenged by the petitioner before the Educational Appellate Tribunal in MA (EAT No.48 of 1989) and the said petition came to be allowed vide order dated 03.11.1993. Immediately, the respondents have appointed an enquiry officer, Mr. M. G. Eswarappa, in 1995 has issued a notice to the petitioner regarding initiation of an enquiry



regarding the alleged bigamy and intimated to him to appear before the enquiry officer.

35. The petitioner did not appear before Mr. M.G. Eshwarappa, the inquiry officer. The petitioner has approached this court in CRP No. 3544 of 1993. The said CRP came to be allowed and ordered the petitioner to be reinstated with all consequential benefits. Thereafter, the petitioner was transferred from STS High School, Toolahalli to Ningappa Basappa Kabbur High School, Devihosur, Haveri Taluk, and again the proceedings continued and Shekhar Shiragambi advocate was appointed as an enquiry officer. He has issued a notice to the petitioner and the petitioner submitted a reply to the charge memo on 07.06.2003.

36. Again the management has cancelled the appointment of Shekhar Shiragambi as an enquiry officer and appointed respondent No. 5 as an enquiry officer. He was issued a charge memo to the



petitioner. He has conducted an enquiry and submitted a report stating that there is no delay initiating the proceedings against the petitioner. The judgment relied upon by the learned counsel for the petitioner is not applicable to the case on hand. Hence, I do not find any error in the impugned judgment. The Educational Appellate Tribunal considering the entire material on record has rightly confirmed the order of punishment. Hence, I do not find any error in the impugned judgment.

37. Accordingly, I proceed to pass the following order:

ORDER

- i. The writ petition is ***dismissed***.
- ii. Pending interlocutory application/s, if any, stands disposed of accordingly.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

SKS