

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION No. 4772/2015.

Smt. Laxmi narayan Dongre

-VERSUS-

The Education Officer (Sec), Z.P. Nagpur and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : **B.P.DHARMADHIKARI**
& P.N. DESHMUKH, JJ.

DATE : **OCTOBER 20, 2015.**

Heard Shri P.N. Shende, learned counsel for the petitioner, Shri N. Rao, learned A.G.P. for respondent no.1, Shri A.A. Naik, learned Counsel for respondent no.2 and Shri B.G. Kulkarni, learned Counsel for respondent no.3, for some time.

2. Perused order dated 21.08.2015. On that date, this Court issued notice before admission and noted readiness and willingness of petitioner to communicate to Management name of her representative for constitution of Enquiry Committee. That name was not communicated by the petitioner till

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31.08.2015.

3. Record produced before the Court show that last sitting of the Enquiry Committee was held on 17.08.2015, and thereafter, the enquiry report has also been furnished to the petitioner. Copy of the enquiry report is produced before this Court by respondent no.2 Management.

4. Perusal of charge-sheet served upon the petitioner show total 5 charges. Out of those 5 charges, Charge no.3 is in relation to mis-appropriation. The exact amount mis-appropriated by the petitioner has not been pointed out. It is mentioned that she opened a bank account with State Bank of India, Panchpaoli Branch in her own name, while two other accounts i.e. Account Nos. 386 and 817 were already in use. It is mentioned through these two accounts and third account, petitioner issued cheques in name of some third person (person unconnected with school) and mis-appropriated lakhs of rupees. However, during arguments, we gather that the objection is only in relation to amount of Rs. 50,000/- paid to a dismissed senior clerk.

5. Charge no.5 is about the alterations in

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school leaving certificates. It is mentioned that petitioner altered caste of one Shilpa Borkar and date of birth of one Nanda Wahane. However, the dates on which these alteration has been done is not mentioned.

6. Remaining charges also do not give any specific date of the alleged misconducts.

7. Thus, we find that the petitioner did not act promptly after orders of this Court dated 21.08.2015 and perhaps wanted to avoid departmental enquiry till she reached the age of superannuation.

8. On the other hand, it appears that there are internal differences in the management of the education society and both the groups are before this Court. Group which has conducted the departmental enquiry is opposing the petitioner, while the other group is supporting the petitioner. Petitioner as also said group represented by Shri B.G. Kulkarni, learned counsel are inviting attention to orders passed by the respondent no.1, restraining the respondent no.2 management from taking any coercive steps against the employees like petitioner.

9. In this situation, as we find that it is

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otherwise regulated by the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 read with 1981 Rules, framed thereunder, and as disputed questions of facts arise, we grant petitioner leave to approach the School Tribunal under Section 9 of the aforesaid Act. We also permit the Management to pass appropriate order of punishment. However, that order of punishment shall not be given effect for a period of four weeks from its date and shall be subject to interim orders of School Tribunal. School Tribunal shall attempt to pass suitable interim orders as per law and uninfluenced by our order, within said period of four weeks.

10. The superannuation of petitioner on 31.10.2015, shall not be a bar in considering her prayer for grant of interim relief by the School Tribunal.

11. With these directions and keeping all rival contentions open, we dispose of the present writ petition. No costs.

JUDGE

JUDGE

Rgd.