

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2625 OF 2014

Gokul s/o Rajaramji Ingle
Age: years, Occu.Nil
Ex-Part KV Aurangabad Cantt.,
Ordinarily resides at HIG 54,
Mhada colony, N-2, CIDCO,
Near Vasant Dada Patil High School,
Aurangabad. **PETITIONER**

VERSUS

- 1] Union of India,
Through the Vice Chairman,
Kendriya Vidyalaya Sangathan,
Shastri Bhavan Gage 6 Room 31,
C-Wing, New Delhi – 110 016.

[Copy to be served on the Standing
Counsel, High Court of Judicature
of Bombay Bench at Aurangabad]

- 2] The Commissioner,
Kendriya Vidyalaya Sangathan,
[Vigilance Section],
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi.
- 3] The Assistant Commissioner,
Now the Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Mumbai Region-Mumbai.
IIT Campus, Powai,
Mumbai-400 076.
- 4] Mrs. Savita Job,
Principal,

Kendriya Vidyalaya,
At Post Yevatmal,
Dist. Yevatmal,
Pin.445 001.

- 5] Mrs.Sunanda Pardeshi,
TGT [Hindi],
Kendriya Vidyalaya,
Aurangabad
[Resp.No.5 deleted as
per Courts order dtd.
05.01.2016]

RESPONDENTS

...

Mr.V.D.Sapkal, Advocate for the Petitioner
Mr.K.B.Chaudhari, Advocate for Respondent
Nos.2 to 4
Mr.S.B.Deshpande, ASG for Respondent No.1.

...

**CORAM: S.S.SHINDE &
V.K.JADHAV, JJ.**

Reserved on : 21.04.2016
Pronounced on : 07.06.2016

JUDGMENT: [Per S.S.Shinde, J.]:

This Petition takes exception to the
impugned judgment and order dated 8th May,
2013, passed by the Central Administrative
Tribunal, Bombay Bench at Mumbai [for short
'CAT'] in Original application No.217/2013.
There is also prayer for quashing and setting

aside the order of termination of the services of the petitioner issued by the Commissioner of Kendriya Vidyalaya Sanghatan, New Delhi. Further direction is sought to the respondents to reinstate the petitioner in the employment. It is further prayed to hold and declare that Article 81 [B] of the Education Code for Kendriya Vidyalaya, is *ultra vires* to Article 14 of the constitution of India.

2] The CAT has extensively referred the facts of the case in the impugned judgment, and therefore, we do not feel it necessary to reproduce the said facts; as and when it is necessary we will make a reference to the relevant facts from the impugned judgment.

3] The learned counsel appearing for the petitioner submits that the service record of the petitioner prior to alleged incident is clean and unblemished. He was

awarded '*Bal Mitra Award*' by Vikrant Yuva Manch, Parbhani, in the year 1994-1995. It is submitted that the petitioner has been implicated in the false offence with *oblique motive* on account of groupism and castism. An alleged enquiry has been conducted behind the back of the petitioner, without affording him an opportunity of being heard. The notice given to the petitioner did not contain the charge and material against him so as to enable the petitioner to give reply. An alleged statements and complaints made by the students and parents have not been shown to the petitioner, and he was orally directed to submit his say to the said complaints. An action taken against the petitioner on the basis of news item is arbitrary and contrary to the facts on the record. The Principal has not appointed a scheduled caste member on the Enquiry Committee. Mrs. Sunanda Pardeshi has

intentionally prompted and instigated the students to give false complaints against the petitioner. The report submitted by the Committee is not fair, and it is only with a view to wrongly implicate the petitioner in an alleged incident. The said report is false and fabricated. Though, show cause notice was issued on 09.06.2011, the Principal had deliberately kept it with her, and same was served to the petitioner, almost after two months i.e. on 17.08.2011. The said show cause notice is without signature of competent authority. It shows non application of mind. The CAT failed to consider the fact that several parents have submitted their affidavits stating therein the innocence of the petitioner.

4] It is further submitted that, Article 81 [B] of the Education Code for Kendriya Vidyalaya is *ultra vires* to Article 14 of the Constitution of India, since under

the said Article, holding of an enquiry is dispensed with thereby giving no opportunity to the delinquent to put forth his say. Said provision gives arbitrary power to the authority. Therefore, the impugned order dated 8th May, 2013, passed by the CAT, Bombay, Bench at Mumbai, is not legally sustainable.

5] It is further submitted that, the statement of the concerned students were not recorded in presence of the petitioner. The Constitution of the Committee was contrary to the provisions of Article 159 of Education Code inasmuch as, the Principal appointed five members instead of appointing three members as provided.

It is further urged that, when there is provision for conducting full-fledged enquiry in respect of any misconduct before imposing major punishment, denying an

opportunity to defend the case in the full-fledged enquiry is nothing but violation of principles of natural justice. It is argued that, termination of services of the petitioner, which is a major penalty, under the garb of dispensing with a full-fledged enquiry, is nothing but, an arbitrary action and thus violative of Article 14 of the Constitution of India.

6] The learned counsel appearing for the petitioner invited our attention to the pleadings in the Petition and grounds taken therein and submits that the principles of natural justice have not been followed in the present case. He also invited our attention to the judgment of the Division Bench in the case of **Prof.Manohar Dhonde & anr. Vs. State of Maharashtra & ors.**¹ and submitted that, even in the case of allegations in respect of sexual harassment, adherence to the

1 2007 [2] ALL MR 717

principles of natural justice so as to defend the said allegation is necessary. The principles of natural justice cannot be divorced from any enquiry, more so when the conclusions of the enquiry are likely to impose penal consequence or civil liability. The learned counsel further submitted that though Article 81 [B] of the Education Code confers power upon the Commissioner as contemplated under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short, referred to as the 'CCS (CCA) Rules, 1965'); even summary enquiry contemplates show cause notice with charge / allegations and documents alleged against the delinquent so as to give him opportunity to reply the same. In support of the aforesaid contentions, the learned counsel appearing for the petitioner pressed into service exposition of law in the case of **All India Judges Association and others Vs. Union of**

India and others² and in particular, para 20 thereof. Therefore, relying upon the pleadings in the Petition and grounds taken therein, annexures thereto and the reported judgment of which reference is already made herein-above, the learned counsel appearing for the petitioner submits that the petition deserves to be allowed.

7] Since the allegations against the petitioner relates to the sexual harassment, we do not wish to refer the father, parents of the girls or the concerned girls by name in the judgment. Therefore, we would refer the father as 'A' and girls / students as 'B'.

8] The learned counsel appearing for respondent nos. 1 to 4 relying upon the averments in the affidavit in reply made following submissions:

2 [2004] 13 SCC 572

9] Kendriya Vidyalaya Sangathan [for short 'Sangathan'] is an autonomous body registered as a society under the Societies Registration Act XXI of 1860 with the objective to provide, establish, endow, maintain, contribute and manage schools [hereinafter called the 'Kendriya Vidyalayas' for the children of transferable employees of the Government of India, Defence, Floating population and others and to do all acts and things necessary or conducive for the promotion of such schools etc. The Sangathan is fully funded by the Government of India. The Authorities of the Sangathan are Board of Governors, the Chairman of KVS is the Minister of HRD, Deputy Chairman and Vice-Chairman, whereas, the Officers of the sangathan are the Commissioner, Additional Commissioner, Joint Commissioners, Deputy Commissioner and Assistant Commissioner.

There are around 1093 Kendriya Vidyalayas all over the country, and for control over the same, 25 Regional Offices have been established. Each Regional office is under the control of the Deputy Commissioner who looks after the management, administration and academic affairs of the Kendriya Vidyalayas under his / her control. The Principal is the head of Kendriya Vidyalaya who manages financial, administrative and academic affairs of the vidyalaya. For smooth functioning of the kendriya vidyalayas, the Education Code and the Accounts Code, duly approved by the Board of Governors have been framed. Article 80 of the Education Code provides for extension of the application of the CCS [CCA] Rules, 1965 and these Rules are applicable to KVS *mutatis mutandis*.

10] He further submits that 'A' father

of 'B', student of class IV/B made a complaint dated 21.12.2010 against the petitioner alleging commission of acts by petitioner amounting to moral turpitude against his daughter. The said report was received from the Principal, KV, Aurangabad, about the complaint against the petitioner. The preliminary enquiry was conducted by the Principal at the Vidyalaya level. Thereafter, the summary enquiry was conducted by the duly constituted Committee. The summary enquiry report along with the relevant documents were sent to respondent no.2, who is the competent Authority to take action under Article 81 [B] of the Education Code. Thereafter, respondent no.2 had issued a show cause notice dated 9th June, 2011 to the petitioner giving him an opportunity to make representation, if any, against the said show cause notice. A show cause notice was issued by respondent no.2 under Article 81

[B] of the Education Code, however, the petitioner made a representation dated 16.09.2011, instead of submitting the reply to show cause notice, to investigate the matter under Redressal Committee for SC/ST Employees of KVS as per the Article 159 of Education Code, which was irrelevant in the present context and had nothing to do with the present case.

11] After examining the case and the relevant documents by KVS [HQ], respondent no.2 terminated service of the petitioner from KVS vide order dated 1st November, 2011, and the Principal, KV, Aurangabad has paid pay and allowances for three months in lieu of notice period as per the directives by KVS [HQ]. An appeal preferred by the petitioner against the order of termination has also been rejected. Thereafter, the petitioner filed Original Application before the CAT and

the same is also rejected. Article 159 of the Education Code for Kendriya Vidyalaya is related to redressal of grievances for SC/ST employees of KVS which is out of context in the present case. The Principal, KV, Aurangabad constituted a Preliminary Enquiry Committee as per the KVS Circular No.F-11-40/2001/KVS [Vig.] dated 24th January, 2002 and 1st March, 2005 as per the provisions of Article 81 [B] of Education Code as the matter pertains to moral turpitude against girl student.

12] As per Article 81 [B] of the Education Code, respondent no.2 is empowered to take action under the said Article without holding regular enquiry as provided under CCS [CCA] Rules, 1965, and terminate the services. On the basis of preliminary as well as summary enquiry reports, the petitioner was found guilty of moral

turpitude involving sexual offence and exhibition of immoral sexual behaviour towards girl students. The petitioner made representation dated 16th September, 2011, for investigating the matter through Redressal Committee for SC/ST Employees of KVS as per Article 159 of the Education Code, which is totally irrelevant and uncalled for and was made only with a motive to avoid action under Article 81 [B]. The case was dealt with under Article 81 [B] of the Education Code and not under CCS [CCA] Rules, 1965, and the petitioner was given an opportunity to put up his defence during the preliminary as well as summary enquiry conducted by the Principal, KV, Aurangabad and the then respondent no.3, respectively. The learned counsel invited our attention to the observations made by the CAT, Mumbai in para 13 of the impugned judgment. He submits that, opportunity was given to the petitioner to put up his defence

during preliminary as well as summary enquiry. Respondent no.2 terminated the services of the petitioner on the basis of findings recorded in the preliminary and summary enquiry reports and considering all relevant documents. Ample opportunities were given to the petitioner to put up his defence during enquiries and later on the action has been taken against the petitioner by the Disciplinary Authority and Appellate Authority as per the Rules, and therefore, there is no violation of principles of natural justice and Article 14 of the Constitution of India as alleged by the petitioner.

13] The learned counsel appearing for respondent nos.1 and 4 pressed into service the exposition of the Supreme Court in the case of **Avinash Nagra Vs. Navodaya Vidyalaya Samiti and others**³ and submitted that, the

3 [1997] 2 SCC 534

success of the educational process depends considerably on the teacher, for it is the teacher who has to implant aims, and to build the character of the students. Therefore, the conduct of the teacher should be befitting with such higher responsibilities; however, the petitioner by his conduct betrayed the trust and forfeited the faith whether he would be entitled to the full-fledged enquiry as demanded by him. He further pressed into service exposition of the Supreme Court in the case of ***Director, Navodaya Vidyalaya Samiti and others Vs. Babban Prasad Yadav and another***⁴ and submits that when the case relates to the allegation of the teacher indulging in immoral conduct with the girl students regular enquiry is not contemplated and such case can be enquired into by summary enquiry. He further placed reliance on the judgment of the Division Bench of Karnataka

4 [2004] 13 SCC 568

High Court in the case of **Government of India and ors Vs. Dhanu S. Rathod**⁵ wherein, the Karnataka High Court has considered the provisions of Article 81 [B] of the Education Code for KV vis-a-vis CCS [CCA] Rules, 1965 and clarified that reservation made to the Sanghathan to take action will not require the Sanghathan to hold a regular enquiry permitting cross-examination of the complainant/s or witnesses of the management. He further submitted that in the case of **Kendriya Vidyalaya Sangathan and anr. vs. State of Jharkhand and another**⁶, the Division Bench of Jharkhand High Court held that normally in the matter of internal administration of the educational institutions with regard to discipline and conduct of the teachers and the students, the Court or the Tribunal should be very slow in interfering with such matters.

5 2002 [4] KCCR 347

6 2008 DGLS(AHC) 12063;

14] We have considered the submissions of the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. With their able assistance, perused the pleadings in the Petition, grounds taken therein, annexures thereto, reply filed by the respondents and the aforesaid judgments of the Supreme Court and various High Courts, cited across the Bar during the course of hearing. We have carefully perused the original record and proceedings. It appears that the Disciplinary Authority and the Appellate Authority have examined and considered the relevant aspect of the issues. The CAT has also considered the entire record of the case and also proceedings of the Enquiry Committee and also defence statement and the reports submitted by the applicant in response to the charge-sheet. At the outset it would be apt to

reproduce herein-below Article 81 [B] in Chapter-VIII [Discipline] of Extension of the application of Central Civil Services (Classification, Control and Appeal] Rules, 1965:

"81. [A]

[B] **Termination of services of an employee found guilty of immoral behaviour towards students:**

Where the Commissioner is satisfied after such a summary enquiry as he deems proper and practicable in the circumstances of the case that any member of the Kendriya vidyalaya is prima-facie guilty of moral turpitude involving sexual offence or exhibition of immoral sexual behaviour towards any student, he can terminate the services of that employee by giving him one month's or three month's pay and allowances accordingly as the guilty employee is temporary or permanent in the service of the Sangathan. In such cases, procedure prescribed for holding enquiry for imposing major penalty in accordance with CCS [CCA] Rules, 1965 as applicable to the employees of the

Kendriya vidyalaya Sangathan, shall be dispensed with, provided that the Commissioner is of the opinion that it is not expedient to hold regular enquiry on account of embarrassment to student or his guardians or such other practical difficulties. The commissioner shall record in writing the reasons under which it is not reasonably practicable to hold such enquiry and he shall keep the Chairman of the Sangathan informed of the circumstances leading to such termination of services.

Note: *Wherever and as far as possible, a summary inquiry in the complaint of immoral behaviour by a teacher towards the students of Kendriya Vidyalayas may be got investigated by the Complaints Redressal Committees constituted in the Regional offices.*

15] Keeping in view the aforesaid provision and the facts involved in the present case, on receiving the complaint on December 21, 2010, the Principal of KV, Aurangabad, from 'A' father of 'B' girl

student of Class-IV alleging that the petitioner has misbehaved with his daughter and her two friends studying in standard IV and V, the Principal constituted a Committee on December 24, 2010, to hold a preliminary enquiry. The Committee found that the charge levelled against the petitioner was *prima facie* established. On December 29, 2010, the Principal forwarded the said Enquiry Report to the Deputy commissioner, Kendriya Vidyalaya Sangathan, Mumbai Region for further action. As directed by the Deputy Commissioner, a summary enquiry was held by a Committee constituted by him for the said purpose. The said Committee also found that the allegations made against the petitioner have been established. Consequently, a show cause notice was issued to the petitioner on June 9, 2011, directing him to state reasons, if any, as to why his services should not be terminated under Article 81 [B] of the

Education Code for Kendriya Vidyalaya. The Disciplinary Authority after considering the representation of the petitioner filed on September 12, 2011, issued order of termination, terminating his services with immediate effect. It was made clear that the petitioner will be entitled to pay and allowances as admissible under the Rules, in lieu of notice period. The said order was challenged by the petitioner before the Appellate Authority, the Vice Chairman of the Kendriya Vidyalaya Sangathan, who by his order dated March 2, 2013 confirmed the order passed by the Disciplinary Authority.

Upon perusal of the material placed on record, it appears that on 27.12.2010, the petitioner was informed to attend Enquiry Committee meeting on 28th December, 2010, at 1.00 p.m. On 28.12.2010, a typed copy of questionnaire of preliminary enquiry was

given to the petitioner. The petitioner answered said questionnaire. Thereafter again, on 31st January, 2011, the questionnaire was provided by the Education Officer / Enquiry Officer to the petitioner. The petitioner replied the said questionnaire. Thereafter, enquiry report was prepared. The said enquiry report is divided into three chapters. Chapter-1 mentions about the contents of allegations, constitution of Committee of three members, directions issued to the said Committee to visit the Vidyalaya to take necessary feedback from all the student, staff members and parents concerned and to record their statements duly signed by them. The Committee further directed to give opportunity to the petitioner to submit his defence. As per the office order, summary Inquiry Committee conducted enquiry on 31.01.2011. Chapter-2 deals with the

allegations made against the petitioner. An allegation against the petitioner has been mentioned in the said report. Said chapter further refers to the written statement of three girl students, which were recorded on 21.12.2010 and 28.12.2010. The names of 5 Committee Members have also been mentioned. The gist of allegations of three girl students of IV class, is also mentioned in the said chapter. In chapter-3, enquiry procedure is mentioned. It is mentioned in the said chapter that three students of class IV/B, who initially made written statement on 21.12.2010 and 28.12.2010 and submitted the same to fact finding Committee making allegation against the petitioner. The member of said Committee spoke to all three girls on 31.01.2011 and taken their written statement. The members of the said Committee also spoke to the relatives of the girls. The members of the said Committee also spoke to the

petitioner, and taken his written statement based upon input given by the students. The statement of other teachers have also been recorded. The petitioner was given an opportunity on 31.01.2011 to record his statement in defence of the allegation made against him by three girl students of class IV/B. The Committee looked into the statement made by the teacher before the fact finding Committee on 21.12.2010 and 28.12.2010 and other related documents given by the KVS RO, Mumbai. In chapter-4 there is list of oral and documentary evidence. Upon perusal of the list of the said documents, it refers to the office order for conducting summary inquiry, complaint received from parents, constitution of fact finding committee, written statements submitted by three girls and teachers on 21.12.2010, written statement given by the petitioner i.e. Mr. Gokul Ingale, Principal's report dated 21.12.2010,

report submitted by the Fact Finding Committee, written statement given by three girls of class IV/B, written statement given by mother of one of the girls, questionnaire given to the petitioner by the Fact Finding Committee, written statement given by the petitioner, statement given by three girls of class IV/B on 31.01.2011, written statement given by brother of one girl on 31.01.2011, written statement given by the sister of one of the girls on 31.01.2011, written statement given by mother of one girl, written statement given by father of one of the girls, another statement of father of one of the girls, written statement given by the father of third girl, written statement given by the teachers, written statement given by the petitioner, photocopy of the report published in news paper i.e. Lokmat Times and Local Papers on 24.12.2010, photocopy of time table of the petitioner,

photocopy of class work of class II/A and photocopy of letter received from Rachit Rawat, Officiating Officer commanding, etc. Therefore, if the aforesaid documents are considered in its entirety it appears that, at every occasion, the petitioner was given an opportunity to put forth his contention. He has also replied two questionnaires and filed two written statements.

16] Even before terminating the services of the petitioner, show cause notice was issued to the petitioner by the Disciplinary Authority and thereafter the petitioner's services have been terminated. Therefore, we do not find any substance in the argument of the learned counsel appearing for the petitioner that, there is no adherence to the principles of natural justice. The Hon'ble Supreme Court in the case of **Avinash Nagra Vs. Navodaya Vidyalaya Samiti and others**

[supra], in para 6 and 11 held thus:

“Before answering the question whether the order terminating the services of the appellant in terms of his appointment letter is in violation of the Rules or the principles of natural justice, it is necessary to consider the need for the education and the place of the teacher in that behalf. Article 45 of the Constitution enjoins the State to endeavour to provide free and compulsory education to all children, till they complete the age of 14 years. The Supreme Court has held that right to education is a fundamental right and the State is required to organise education through its agencies or private institutions in accordance with the law and the regulations or the scheme. The State has taken care of service conditions of the teacher and he owes dual fundamental duties to himself and to the society. As a member of the noble teaching profession and a citizen of India he should always be willing, self-disciplined, dedicated with integrity to remain ever a learner of knowledge, intelligently to articulate

and communicate and imbibe in his students, as social duty, to impart education, to bring them up with discipline, inculcate to abjure violence and to develop scientific temper with a spirit of enquiry and reform constantly to rise to higher levels in any walk of life nurturing constitutional ideals enshrined in Article 51-A so as to make the students responsible citizens of the country. The quality, competence and character of the teacher are, therefore, most significant to mould the calibre, character and capacity of the students for successful working of democratic institutions and to sustain them in their later years of life as a responsible citizen in different responsibilities."

It is further held in para 12 that Education to the girl children is nation's asset and foundation for fertile human resources and disciplined family management, apart from their equal participation in socio-economic and political democracy. Only of late, some middle-class people are sending

the girl children to co-educational institutions under the care of proper management and to look after the welfare and safety of the girls. Therefore, greater responsibility is thrust on the management of the schools and colleges to protect the young children, in particular, the growing up girls, to bring them up in disciplined and dedicated pursuit of excellence. The Supreme Court further observed in para 12 that character and conduct of the teacher should be more like Rishi and as loco parentis and such is the duty, responsibility and charge expected of a teacher. It is further observed that in such cases enquiry is not a panacea but a nail in the coffin. It is self-inspection and correction that is supreme. The Supreme Court also considered rules involved in the said case and observed that the rules wisely devised have given the power to the Director, the highest authority

in the management of the institution to take decision, based on the fact-situation, whether a summary enquiry was necessary or he can dispense with the services of the appellant by giving pay in lieu of notice. Two safeguards have been provided, namely, he should record reasons for his decision not to conduct an enquiry under the rules and also post with facts the information with Minister, Human Resources Department, Government of India in that behalf. Therefore, it follows from the authoritative pronouncement of the Supreme court that in such cases, it is dispensing with regular enquiry and denial of cross examination is justified. In the case of **Director, Navodaya Vidyalaya Samiti and others Vs. Babban Prasad Yadav and another [supra]**, the very rule which is pressed into service by the respondents herein relating to the dispensing with the enquiry notified on 20.12.1993 was

considered and the Supreme Court in para 7 held thus:

"7. We are of the view that the High Court erred in reversing the decision of the Tribunal. The rule quoted earlier, explicitly deals with such a situation as obtains in the present case. The rule is not under challenge. All that is required for the court is to be satisfied that the preconditions to the exercise of power under the said rule are fulfilled. These preconditions are: (1) holding of a summary enquiry, (2) a finding in such summary enquiry that the charged employee was guilty of a moral turpitude; (3) the satisfaction of the Director on the basis of such summary enquiry that the charged officer was prima facie guilty; (4) the satisfaction of the Director that it was not expedient to hold an enquiry on account of serious embarrassment to be caused to the student or his guardians or such other practical difficulties and finally; (5) the recording of the reasons in writing in support of the aforesaid."

17] In the present case, upon

considering the material placed on record, all the aforesaid conditions mentioned have been fulfilled. An Enquiry Committee was duly constituted. An enquiry Committee has recorded its definite conclusion and thereafter Disciplinary Authority after giving show cause notice has terminated the services of the petitioner. Appeal filed by the petitioner also came to be dismissed and the CAT has also rejected the Application filed by the petitioner.

18] In the case of ***Kendriya Vidyalaya Sangathan and anr. vs. State of Jharkhand and another [supra]***, the Jharkhand High Court has also considered the similar fact situation like in the present case. In the light of Article 81 [B] of the Education Code for KV and held that in the facts of that case the Tribunal has not considered the gravity of the complaint made against the respondent

therein, who is none else but a teacher of the School and the allegation against him is of moral turpitude. The Tribunal also failed to notice that not only summary enquiry committee but also Commissioner and the Vice Chairman being the appointing authority and the appellate authority, have given opportunity to the respondent to submit his explanation / show cause and also to participate in the proceeding. The Tribunal, therefore, ought not to have interfered with the orders passed by the Authorities of the School. In para 11 of the said judgment, Jharkhand High Court observed, thus:

11. From perusal of the impugned order passed by the Tribunal, we are of the view that the Tribunal has not considered the gravity of the complaint made against the respondent, who is none else but a teacher of the school and the allegation against him is of moral turpitude. The Tribunal also failed to notice that not only the

summary enquiry committee but also the Commissioner and the Vice-chairman being the appointing authority and the appellate authority, have given opportunity to the respondent to submit his explanation / show cause and also to participate in the proceeding. The Tribunal, therefore, ought not to have interfered with the orders passed by the Authorities of the school. In our view, normally in the matter of the internal administration of the educational institutions with regard to discipline and conduct of the teachers and the students, the court or the tribunal should be very slow in interfering with such matters. In our considered opinion, therefore, the impugned order passed by the Tribunal cannot be sustained in law.

19] The learned counsel appearing of the petitioner placed heavy reliance on the judgment of the Karnataka High Court in the case of **Government of India and ors Vs. Dhanu S. Rathod** [supra]; however, in the facts of that case, the Commissioner at New Delhi has passed the order of termination. He has not

held summary enquiry. He merely acted on the Assistant Commissioner's order passed at Bangalore. However, in the present case, before terminating the services of the petitioner, show cause notice was issued, the Disciplinary Authority after considering representation dated September 12, 2011, submitted by the petitioner, terminated his services.

20] In the light of discussion herein-above, we are unable to persuade ourselves to cause interference in the order of termination and, also the impugned judgment and order passed by the CAT. We are of the view that the impugned termination order and also the reasons / findings recorded by the Tribunal are in consonance with the relevant provisions of law and also material placed on record. We are also not inclined to accept the argument of the counsel appearing for the

petitioner that Article 81 [B] of the Education Code for Kendriya Vidyalaya is *ultra vires* to Article 14 of the Constitution of India. In that view of the matter, the Writ Petition stands rejected.

Sd/-

[V.K.JADHAV]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE