

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

WRIT PETITION NO.7805 OF 2015

Ramdas Dashrath Taphare ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.S.S.Jadhavar, advocate for the petitioner.
Mr.B.A.Shinde, A.G.P. for the State.
Mr.V.D.Sapkal, advocate for Respondent Nos.2 and
3.

...

**CORAM : S.V.GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

Date : 21.3.2017.

PER COURT :

1. Heard.

2. Mr.Jadhavar, learned counsel submits that the petitioner stood retired with effect from 31.5.2013. Thereafter, the order is passed by the Respondent Management claiming recovery

from the petitioner. The learned counsel submits that the pension papers were not forwarded, as such the petitioner has approached this Court. The learned counsel submits that after retirement, no inquiry could be commenced against the petitioner. The learned counsel submits that the recovery is sought to be claimed in respect of an amount of which exemption from payment of fees was given to the students. The teachers of the respective classes had submitted application with the list of students, who are not in a position to pay the fees. The School Committee had passed a Resolution giving powers to the Head Master to remit the fees of such students.

3. Mr.Sapkal, learned counsel for the Respondents submits that the petitioner being the Head Master was required to follow procedure. None of the students or the parents of the students had at any point of time given application for remission of fees. The Head Master is supposed to work with responsibility. Only on the basis of the list of students given by the class teachers, the Head Master did not

collect the fees of the students, because of which the institution had to suffer loss of Rs.3,00,940/- (Rupees three lacs nine hundred forty only). The petitioner did not act with due diligence and has misused the authority given to him. The needy students certainly are entitled for the exemption of fees but without verifying the genuineness about the needy students, the petitioner being the Head Master did not collect the fees.

4. We have considered the submissions canvassed by the learned counsel for respective parties. This Court under order dated 26.3.2015 in W.P.No.3880/2014, had permitted the institution to conduct the inquiry. As such we need not enter into the debate about the authority of the Respondent-institution to conduct the inquiry.

5. The allegation against the petitioner was of not adhering to the proper procedure while granting exemption of fees to the students. It is a matter of record that School Committee had

passed a Resolution, thereby taking a decision to give remission of fees to the needy students and the powers to grant exemption of fees were given to the Head Master i.e. the petitioner.

6. It is a fact that the petitioner did not receive any application from the parent or the students. However, the class teacher had given the list of the students, who according to him were poor and were not in a position to pay the fees, so also those who were either continuously absent and those who had got ATKT and did not appear for examination. They were coming from poor family. The Head Master on receipt of said list from their respective class teachers exercised his power given by the School Committee and had remitted the fees. It appears that the petitioner has acted bonafidely. We could have considered this lapse seriously, had there been any allegation of misappropriation against the petitioner but the same is not the case. The Respondent-institution also does not allege any misappropriation on the part of the petitioner. The only concern of the Respondent-

institution is non-adherence to the proper procedure while granting exemption. The said infraction on the part of the petitioner may be due to inadvertence or reliance placed on the class teachers. It is a case where exemption of fees has been given to the students. The list of which was given by the class teachers and the same is accepted by the petitioner being the Head Master. Absence of any serious allegations, may not entail penalty of recovery against the petitioner, more so, when the petitioner is not the beneficiary of it.

7. In light of the above, the impugned communication and order is quashed and set aside. Rule is made absolute in terms of prayer clause (B) and (B1). No costs.

(SANGITRAO S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

