

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

WRIT PETITION NO. 487 OF 2018

BALCHAND DEORAO DEOKATE AND ANOTHER
VERSUS
DILIP RAOSAHEB KACHOLE AND ANOTHER

...

Advocate for the Petitioners : Shri Salgare Vitthal G..
AGP for Respondent 2 : Shri V.S.Badakh.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 17th January, 2018

Per Court:

1 The Petitioner/ Educational Society is aggrieved by the order dated 03.11.2017 passed by the School Tribunal, Aurangabad by which, the application Exhibit-20 filed by the Management, praying for framing of a preliminary issue with regard to the maintainability of the execution petition filed by the original Appellant/ Respondent No.1, has been rejected.

2 The learned Advocate for the Petitioner/ Management has strenuously criticized the impugned order. Two contentions have been put forth. Firstly, that the Appellant has preferred the criminal proceedings against the Management seeking imposition of punishment and Regular Darkhast No.1/2017 was withdrawn for pursuing the remedy under

Section 13 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. Secondly, the prayers put forth by the Appellant seeking appointment of an Administrator over the Educational Institution, besides praying for direction for implementation of the judgment of the School Tribunal, render the execution proceedings untenable in law.

3 Reliance is placed upon the judgment of this Court in the matter of Shri Shriprakash Chandmal Bora vs. Shri Mutyal Vilas Rambau, 2011 (6) Mh.L.J. 270.

4 I have considered the submissions of the learned Advocate for the Petitioner and have gone through the petition paper book with his assistance.

5 It is settled law that in the proceedings under Section 13 of the MEPS Act, an order of punishment cannot be sought and for which, the criminal proceedings can be independently instituted by the Appellant. It is settled that Section 13 proceedings can be initiated only to seek the implementation of the judgment of the School Tribunal and the aspect of punishment is left to the jurisdiction of the criminal court.

6 The Appellant has already initiated the criminal proceedings before the appropriate Court seeking orders of imposition of punishment to the persons, who may be guilty of disobedience. The Petitioner has filed Writ Petition No.3414/2016 before this Court for challenging the

judgment of the School Tribunal. Though ad-interim protection was initially granted on the condition that the Management would deposit the back wages in the Court, the said relief was subsequently vacated as the Management failed to deposit the said amount. As such, the judgment of the School Tribunal has not been stayed by this Court.

7 The main grievance of the Management is that the prayers put forth by the Appellant are beyond the purview of the Tribunal's jurisdiction as he has sought an appointment of the Administrator. Even if the case of the Management is taken at its best, the prayer for seeking appointment of an Administrator may be rejected by the Tribunal if it has no jurisdiction. The other prayers put forth by the Appellant can be entertained. For this purpose, framing of a preliminary issue is neither necessary nor warranted. While deciding the execution proceedings under Section 13, the Tribunal can very well consider those prayers, which are within its jurisdiction.

8 Considering the above, I do not find any merit in this petition. The same is, therefore, dismissed.