

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10873 OF 2019

AZAD ALI SHAH SHIKSHAN SANSTHA AND ANOTHER
VERSUS
MUKIM MAHEBUB PATEL AND ANOTHER

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Advocate for Petitioners : Shri Pandav S.P.
Advocate for Respondent 1 : Shri Gastgar S.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 05, 2019

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PER COURT :-

1. This matter was heard on 31.8.2019 and was posted today for passing orders.
2. The record reveals that the management contends that the respondent / employee was unauthorizedly absent. The employee contends that he can dispute the charge of unauthorized absenteeism.
3. Learned Advocate for the petitioner / management submits that besides unauthorized absenteeism, there are other charges which need to be gone into. The management would reinstate the employee and conduct a departmental enquiry as per the Maharashtra Employees of Private Schools (Conditions of Service)

Regulation Act, 1977 (“the MEPS Act”) and the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (“MEPS Rules”) as applicable. He would be paid salary as per the pay scale or suspension allowance as is permitted by law, provided the management seeks permission from the Education Officer to place the employee under suspension pending disciplinary action.

4. Learned Advocate for the employee submits that, he should be paid his salary as per the scale or suspension allowance, calculated on the admissible scale as per Rules.

5. In view of the above, this petition is disposed off by setting aside the impugned order dated 5.4.2019 passed by the School Tribunal on the following terms as agreed between the parties:-

(a) The respondent No.1 / employee shall join duties with the petitioner / School on 11.9.2019 at 10.00 am. There shall be no controversy about the joining of duties.

(b) If the management desires to continue the employee by allotting him the Lectures on daily basis, without suspending him, he shall be entitled for the salary scale as is admissible today for such a teacher and shall be paid his salary on month to month basis.

(c) If the management desires to place the employee under

suspension, it shall be obliged to seek an approval from the Education Officer and if granted, he would be suspended subject to payment of suspension allowance as per admissible scale, in accordance with the Rules.

(d) The management shall follow Rule 36 and Rule 37 of the MEPS Rules scrupulously and shall conduct a departmental enquiry in accordance with the said Rules.

(e) Since the issue as to whether the employee was unauthorizedly absent is to be considered in the departmental enquiry along with any other charge as may be levelled, the issue of backwages from 15.6.2018 would be subject to the result of the departmental enquiry.

(f) In the event of any controversy or dispute between the parties, as regards the implementation of the above directions, the aggrieved party would be at liberty to approach this Court by filing a Civil Application.

(RAVINDRA V. GHUGE, J.)

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