

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 12520 OF 2018

The Maharashtra Academy of Engineering  
Education Research, Pune

Petitioner

Versus

Shri Anil s/o Apparao Kolte  
& another

Respondents

Mr. N.P. Patil Jamalpurkar, Advocate for the petitioners.  
Mr. R.I. Wakade, Advocate for respondent no. 1.

WITH  
WRIT PETITION NO. 13646 OF 2018

Anil s/o Aparao Kolte

Petitioner

Versus

The Maharashtra Academy of Engineering  
& others

Respondents

Mr. R.I. Wakade, Advocate for the petitioner.  
Mr. N.P. Patil Jamalpurkar, Advocate for respondent no. 1.

**CORAM : M.S. KARNIK, J.**  
**DATE : 7<sup>th</sup> August, 2019.**

**PER COURT :**

1. Heard learned counsel for the petitioner.
2. It is the case of the petitioner-management that the respondent being the employee of the management, was bound to comply with the order of transfer. However, he chose not to join the transferred place of posting. The respondent was working as a

Head Master. Respondent-employee challenged the order of transfer by filing a writ petition in this Court. This Court directed the respondent to first join at the transferred place. Despite directions of this Court, respondent did not join.

3. Learned counsel for the respondent-employee submits that he had a valid justification for not joining at the transferred place. He would submit that the transfer order was cancelled by the Education Officer which was not challenged by the management.

4. Learned counsel for the management would submit that once this Court had directed the respondent-employee to join at the transferred place, the respondent should have complied with that order.

5. Be that as it may, respondent is a permanent employee of the management. The decision of the management to terminate the services of the respondent is taken without any opportunity of hearing being granted to the respondent or without holding an enquiry as provided under the Maharashtra Employees of Private Schools Act and the rules framed thereunder.

6. In this view of the matter, the tribunal set aside the termination order as there is breach of mandatory compliance of Rules 36 and 37 of the Rules. I see no reason to interfere with the well considered finding of the tribunal on this aspect. The order of the tribunal re-instating the respondent-employee is upheld.

7. Learned counsel for the management submits that the

management would like to hold an enquiry in terms of the provisions of the Maharashtra Employees of Private Schools Rules and that liberty may be kept open. The management, on the ground that the employee defied the order of the management to join at the transferred place, has proceeded to terminate the services of the employee. The management is free to hold an enquiry, if it so desires. If the enquiry is initiated, the same will have to be proceeded with in accordance with the provisions of the Maharashtra Employees of Private Schools Act and the rules framed thereunder. It is clarified that it is open for the management to initiate an enquiry. Upon reinstatement of the petitioner, the management may exercise its powers of suspension of the respondent in consonance with the provisions of law.

8. In so far as Writ Petition no. 13646/2018 is concerned, the claim of the petitioner is for backwages. I have gone through the findings of the tribunal in paragraph no. 34 wherein the tribunal has clearly stated that the petitioner was gainfully employed and therefore, the claim of backwages is rejected. I see no reason to interfere with the well reasoned order of the tribunal rejecting the claim for backwages.

9. Both the writ petitions stand dismissed subject to the above observations.

**( M.S. KARNIK, J. )**

dyb/