

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9808 OF 2013

Gururaj Vasantao Kulkarni Petitioner
Vs.
The State of Maharashtra & Others Respondents

WITH

WRIT PETITION NO.9807 OF 2013

Siddhehwar Dattatraya Pujari Petitioner
Vs.
The State of Maharashtra & Others Respondents

WITH

WRIT PETITION NO.9809 OF 2013

Hanamant Gurappa Halagali Petitioner
Vs.
The State of Maharashtra & Others Respondents

Mr. Ajinkya Udane i/by Mr. A.M. Joshi for the
Petitioner in all petitions.
Mr. S.S. Panchpor, AGP, for the Respondent-State
in all petitions.
Mr. Sachin Hande for Respondent Nos.4 & 5 in
all petitions.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : FEBRUARY 28, 2019

P.C:

1. By these petitions under Article 226 of the Constitution of India the essential relief claimed is, that this Court should declare that The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (“the MEPS Act” for short) and The Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (“the MEPS Rules” for short) apply to D.Ed. Colleges which are running within the State of Maharashtra and that such of the petitioners before this Court who have been thrown out of service or are terminated otherwise have a remedy of filing an Appeal to the Tribunal under Section 9 of the MEPS Act.

2. In answer to such petitions, affidavits in-reply have been filed in two petitions and in which a categorical stand is taken by respondent Nos.1 to 3. They say in relevant para as

under:-

“8. With reference to Para 13 of the Writ Petition, which contains the Grounds for the petition, I say and submit that no separate service rules have been prepared under N.C.T.E. Act and made applicable to the employee in recognized D.Ed. Colleges. The N.C.T.E. Act deals with the recognition of D.Ed. Colleges in the country. Under the circumstances it is presumed that the employees in D.Ed. Colleges will be governed by Service Conditions as per M.E.P.S. Act, 1977 and M.E.P.S. Rules, 1981 till the separate service conditions rules are prepared, prescribed and applied to them. Considering this aspect the contentions raised by the Petitioner, it is felt that it deserves consideration. However, since the D.Ed. College in which the Petitioner has worked is a Permanently No Grant Basis, the liability of payment of salary lies on the Respondent No.4 Trust and hence the management of the said Trust only is liable to face all the consequences arising out of termination of the Petitioner and not these Respondents.”

On a perusal of this paragraph, it is evident that the understanding of respondent Nos.1 to 3 is that the law, namely, the MEPS Act and the MEPS Rules, applies till separate service conditions are prescribed and applied to the teachers or employees in the D.Ed. Colleges. No such separate rules are prepared, prescribed and applied to them, presently. In the absence thereof, there cannot be a vacuum nor these employees can be left without remedy. Once the substantive law applies,

then all provisions, including Section 9, will apply, is the understanding of the Government.

3. We accept this understanding only because we feel that such petitioners should not rush to this Court challenging the termination orders or make grievance that their services are otherwise terminated. The nature of the dispute and the pleadings involved would show that a writ petition under Article 226 of the Constitution of India cannot always be said to be an equally efficacious remedy. In such circumstances, accepting the statement made in para 8 reproduced above, we dispose of each of these petitions.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)