

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1024 OF 2009
WITH
CIVIL APPLICATION NO. 12706 OF 2019

Mohd. Iqbal s/o Mohd. Gaus
Age 42 years, Occ. Nil,
R/o. Quarbanali Shah Nagar,
Dargah Road, Parbhani
Tq. and District Parbhani

...Petitioner

versus

1. The President,
Parbhani Education Society
Dr. Zakir Hussain Nagar,
Parbhani
2. The Secretary,
Parbhani Education Society
Dr. Zakir Hussain Nagar,
Parbhani
3. The Head master,
Dr. Zakir Hussain High School,
Rajmohalla, Sailu, Tq. Sailu
District Parbhani

4. The Education Officer (Secondary),
Zilla Parishad, Parbhani
Tq. and District Parbhani

...Respondents

.....
Mr. M. V. Ghatge, advocate for the petitioner
Mr. A. B. Tele, advocate for respondent Nos. 1 to 3
Mr. S.P. Deshmukh, A.G.P. for respondent No. 4
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CORAM : V. K. JADHAV, J.
DATED : 5th FEBRUARY, 2021

ORAL JUDGMENT:-

1. This petition is directed against the judgment and order dated 25.8.2008 passed by the learned Presiding Officer, School Tribunal,

Latur in appeal No. 114 of 2006 thereby confirming the order passed by the Chief Executive Officer, Parbhani Education Society, Parbhani, by which terminating the services of the petitioner.

2. I have heard learned counsel for the respective parties for some time.

3. Learned counsel for the petitioner submits that the inquiry committee has not inquired the charges levelled against the petitioner. Learned counsel submits that the reply of the petitioner was not considered, nominee of the petitioner was not appointed, not any single witness of the petitioner was examined. Learned counsel submits that the deposition of the management's witnesses was not supplied to the petitioner. Thus, the committee has not followed the procedure prescribed under Rules 33 to 37 of the Maharashtra Employees of Private School (Condition of Service) Regulation Rules 1981 and awarded the major punishment to the petitioner under Rule 29 of the said Rules without taking permission of the Education Officer concerned and terminated the services of the petitioner. Learned counsel for the petitioner in order to substantiate his submissions places reliance on the judgment of Supreme Court in the case of ***Vidya Vikas Mandal and Anr vs. Education Officer and Anr reported in 2007 AIR (SC) (Supp) 395*** and prays for passing the order in accordance with the guidelines issued in the said order passed by the Supreme Court.

4. Learned counsel appearing for respondents Nos. 1 to 3 and learned A.G.P. appearing for respondent No.4, have not disputed the legal position laid down by the Supreme Court in the case of ***Vidya Vikas Mandal and Anr (supra)***. Hence, I proceed to pass the following order:-

O R D E R

- I. Writ petition is hereby partly allowed.
- II. In view of the provisions of Rule 36(2) (a) of the Maharashtra Employees of Private School (Condition of Service) Regulation Rules 1981, one member from amongst the members of the Management is to be nominated by the Management or by the President of the Management if so authorized by the management, and one member is to be nominated from amongst the employees of any private school and the third member to be chosen by the Chief Executive Officer from the panel of teachers on whom State/National Award has been conferred.
- III. The management of the school is directed to constitute the committee in accordance with sub-Rules (I) (ii) and (iii) of Rule 36(2) (a) of the Maharashtra Employees of Private School

(Condition of Service) Regulation Rules 1981 to go into the matter afresh.

- IV. The petitioner will now be treated under suspension and he will be entitled to the subsistence allowance as per Rules with effect from the date of termination of his services.
 - V. The inquiry shall be completed by the committee within a period of six months from the date of their nomination/constitution.
 - VI. With the above observations and directions, the writ petition is disposed of.
 - VII. Rule made absolute in the above terms.
6. Civil Application No. 12706 of 2019 is also disposed of.

(V. K. JADHAV, J.)

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