

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10781 OF 2019

Gramprabodhini, Nigdi, through
Secretary Vyankatrao Manajirao Bhatane & Anr. ... **Petitioners**
V/s.

Chandrakant Bhimrao Mundhe & Ors. ... **Respondents**

Mr. Amey V. Borwankar for the petitioners.
Mr. Subhash V. Gutte i/b. Mr. Deepak A. Sathe for respondent no. 1.
Ms. Madhubala Kajale, 'B' panel counsel for the State/respondent
nos. 2 and 3.

CORAM : G.S.KULKARNI, J.
DATE : 15 November, 2021

P.C.:

1. Heard Mr. Borwankar, learned counsel for the petitioners, Mr. Gutte, learned counsel for respondent no. 1 and Ms. Kajale, learned AGP for respondent nos. 2 and 3.
2. The challenge in this petition is to an order dated 13 March, 2019 passed by the learned Presiding Officer, School Tribunal, Pune on respondent no. 1's appeal, being Appeal No. 9 of 2015, whereby the Appeal is partly allowed in the following terms:

"ORDER"

The Appeal is partly allowed as under -

- 1) The impugned order of dismissal dated 29.01.2015 is declared as illegal and invalid and hereby quashed and set aside.
- 2) The Respondent nos. 1 and 2 are hereby directed to reinstate the appellant in service on his original post along with backwages.

3) The liberty is given to the respondent nos.1 and 2 for holding fresh inquiry against the appellant as per 33 to 37 of MEPS Rules, 1981 if they desire.

4) The Respondent nos. 1 and 2 are hereby directed to comply the above order within 1 month from the date of this judgment and order.”

3. At the outset, learned counsel for the petitioners would submit that the petitioners have no objection in holding a fresh inquiry as directed in paragraph 3 of the impugned order. The petitioners’ objection is to that part of the order of the tribunal by which the backwages have been awarded in favour of respondent no. 1. It is his contention that as in paragraph 3 of the order, liberty has been granted to the petitioners to conduct a fresh inquiry, the direction in regard to the back wages ought not to have been made and the issue of backwages should be left to be agitated on the outcome of the fresh inquiry.

4. Learned counsel for respondent no. 1 would also submit that as now a fresh enquiry is being ordered, the order on backwages can be subject to the outcome of such fresh enquiry.

5. In view of such consensus between the parties, in my opinion, the petition needs to be disposed of by modifying the impugned order to the extent deleting the direction in regard to the back wages. It is ordered accordingly. It is clarified that the issue of backwages shall now be subject to any further orders which would

be passed in the fresh inquiry proceedings. All contentions of respondent no. 1 in that regard are expressly kept open. Consequently, the order of back wages as included in paragraph 2 of the operative order of the tribunal is not available to be executed at this stage of the proceedings and shall be subject matter of outcome of the fresh inquiry proceedings.

6. The petitioner shall accordingly constitute a fresh Inquiry Committee as per Rule 33 to 37 of MEPS Rules, 1981, which shall conduct inquiry against respondent no. 1 in accordance with law by strict adherence to the principles of natural justice. The Inquiry Committee shall accordingly take a decision in accordance with law. The entire exercise be completed within a period of six months from today.

7. Respondent no. 1 is directed to fully cooperate in the enquiry by attending all hearings.

8. Petition is disposed of in the above terms. No costs.

(G.S.KULKARNI, J.)