

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.570 OF 2020

Shivshakti Shaikshanik Sanstha,
Shivshakti Nagar, Amravati Road,
Nagpur, through its Secretary
Shri Narayan Sarjerao Ghodkhande,
Aged about – 70 years,
Occupation retired employee,
R/o plot No.48, 49, Shivshakti
Nagar, in front of Wadi Police Station,
Amravati Road, Nagpur – 440 023.

..... **Petitioner.**

:: VERSUS ::

1. Smt.Smita Prakash Vispute,
Aged about 54,
Head Mistress,
Late K.C.Thakre @ Prabodhankar
Thakre Smruti Madhyamik Shala,
Bhakta Pundalik Nagar, W.C.L.
Colony, Wadi, Nagpur – 440 023.

2. The Education Officer (Secondary),
Zilla Parishad, Nagpur.

..... **Respondents.**

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Shri A.D.Mohgaonkar, Counsel for the petitioner.
Shri P.A.Jibhkate, Counsel for respondent No.1.
Shri Ashish Kadukar, AGP for respondent No.2.

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CORAM : VM.DESHPANDE, J.
DATE : FEBRUARY 23, 2021

ORAL JUDGMENT

1. Heard learned counsel Shri A.D.Mohgaonkar for the petitioner, learned counsel Shri P.A.Jibhkate for respondent No.1, and learned Assistant Government Pleader Shri Ashish Kadukar for respondent No.2.

2. Respondent No.1 has filed an appeal against the petitioner under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short, “the MEPS Act”). The said appeal is registered as STN No.9/2019 and is pending on the file of learned Presiding Officer, School Tribunal, at Nagpur seeking quashing of termination order dated 25.1.2019 and seeking reinstatement to the post of headmistress with continuity of service and back wages and all other consequential benefits. Along with the said appeal, respondent No.1 also filed an application to stay effect and operation of impugned termination order dated 25.1.2019 before the Tribunal. Learned Presiding Officer passed order on 4.12.2019 thereby ordered that there shall be stay to communication dated 25.1.2019 till final decision of the appeal. Being aggrieved by

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the said, this writ petition is filed by the management principally on the ground that at the interim stage learned Presiding Officer has granted final relief in favour of respondent No.1.

3. On 28.1.2020, this Court (Coram : Ravindra V.Ghuge, J.) issued Notices. Learned counsel Shri P.A.Jibhkate for respondent No.1 made a submission that he would not seek execution of the impugned order, if this Court could take up this petition for final hearing at the admission stage. Today, when this petition was taken up for admission, I am of view that this petition can be decided at this stage. Hence, **Rule**. Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

4. The appeal is filed by respondent No.1 for quashment of order of termination dated 25.1.2019 from the post of headmistress. According to learned counsel for the petitioner, respondent No.1 was terminated after holding departmental enquiry. According to learned counsel for respondent No.1, the said departmental enquiry was not held in accordance with law.

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5. Be that as it may, the appeal filed by respondent No.1 is still pending before learned Presiding Officer, School Tribunal at Nagpur. Any observation from this Court, at this stage regarding legality of order of termination based on departmental enquiry, will prejudice the case of the petitioner as well as respondent No.1. In this view of the matter, I propose not to give any observation.

6. The appeal filed by respondent No.1 is still pending before learned Presiding Officer, School Tribunal at Nagpur. In my view, interest of justice can be met with by giving following directions. Hence, I pass following order:

ORDER

(1) The writ petition is partly allowed.

(2) The petitioner as well as respondent No.1 is directed to appear before learned Presiding Officer, School Tribunal at Nagpur on 10.3.2021.

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(3) Learned Presiding Officer shall decide the appeal, within a period of one month from 10.3.2021, even by fixing the case on day to day basis.

(4) The petitioner and respondent No.1 is directed to extend full cooperation to learned Presiding Officer for disposal of the appeal.

(5) Till the appeal is decided, order dated 4.12.2019 shall remain in abeyance.

With this, the Rule is made absolute in aforesaid terms.

No costs.

JUDGE

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