

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

981 WRIT PETITION NO.3536 OF 2022

**YESHWANT BAHUDDDESHIYA SEVABHAVI SANSTHA THROUGH ITS
SECRETARY BALAJI PANDHARI PANDHARE
VERSUS
VISHNUDAS BHAGWANRAO MOTE**

...

Advocate for Petitioner : Mr. Ram S. Shinde
Advocate for Respondent : Mr. S.S. Manale

...

CORAM : SANDEEP V. MARNE, J.

DATE : 11-10-2022

PER COURT :

. By the present petition, the petitioner has challenged the order dated 02.02.2022 passed by the School Tribunal, Latur rejecting its application to permit it to hold the *de novo* enquiry against the respondent.

2. The respondent has been imposed the penalty of termination from service by order dated 02.12.2019, which is challenged by him by filing Appeal No.34 of 2019 under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. While challenging the order of termination the respondent has also raised another vital ground that the memorandum of charge-sheet which led to termination of his service

included at least five charges, which also formed part of earlier disciplinary proceedings which led to punishment of reversion from the post of Head master that of the teacher.

3. While in an ideal situation I would have disposed of this petition and permitted the Management to hold the *de novo* enquiry. However, I find that in the event of the respondent succeeding on the ground of he being punished twice for the same charges, there would be no occasion to conduct *de novo* enquiry at least in respect of those five charges. Mr. Manale, the learned counsel appearing for the respondent submits that only those five charges are serious in nature while rest of the charges, which are levelled for the first time, are of such a nature that disciplinary proceedings are not warranted considering the provisions of Rule 33 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

4. I am therefore of the view that there is no necessity at this juncture to permit the petitioner to conduct the *de novo* enquiry. In the event of the respondent succeeding before the School Tribunal on the point of he being punished twice for same charges, there would be no question of conducting a *de novo* enquiry. In this situation, I find that the School Tribunal has rightly rejected the application of

the petitioner.

5. In view of the above, the petition being devoid of any merits deserves to be dismissed and is accordingly dismissed without any order as to the costs.

6. Considering the fact that the appeal has been pending before the School Tribunal since the year 2019 and the *ad interim* order has been operating since March – 2022, the School tribunal is requested to decide the appeal of the respondent as expeditiously as possible, preferably within a period of six months from today.

(SANDEEP V. MARNE, J.)

...