

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1620 OF 2021

F. M. Thakur ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

Mr. S. R. Nargolkar a/w. Mr. Arjun Kadam, Advocate for the
Petitioner.

Mr. S. B. Kalel, AGP for the Respondents/State.

**CORAM: S.V. GANGAPURWALA &
DHIRAJ SINGH THAKUR ,JJ.**

DATED : JUNE 14, 2022

P.C.

1. The petitioner seeks directions against the respondents to conduct inquiry against respondent No.8 Headmaster of the school on the ground that he is mentally incapacitated to officiate the duties of Headmaster and further is guilty of various dereliction in duty.

2. The learned Counsel for the petitioner make reference to Section 4A of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977 (hereinafter referred to as "**MEPS Act**") and submits that if the Management fails to conduct an inquiry against the errant employee, the Director, Education Department is bestowed with the duty to conduct an inquiry and take action against the said employee. The learned Counsel for the petitioner submits that Head of the institution has been shouldered with the responsibility of various duties as are

detailed in Section 4 of the MEPS Act read with Schedule (I). According to the learned Counsel, there are large scale irregularities committed by the respondent No.8. In the first week of April when directions were to remain in headquarter and not to leave the school, the respondent No.8 travelled outside the city during the lockdown and also permitted other teachers to do so. The learned Counsel for the petitioner further submits that the text-books are not distributed within time to the students. The course that was to be concluded in March was extended up to May. There are various acts of commissions and omissions on the part of the respondent No.8. The Management was required to take action as the employee is the Head of the institution. The Management has failed to perform its duty and in absence thereof the Education Department was duty bound to conduct inquiry of such Head of the institution. According to the learned Counsel, the respondents be directed to conduct inquiry against respondent No.8.

3. We have considered the submissions.

4. The respondent No.5 i.e. the institution is a private grant-in-aid institution. The petitioner is the Ex-President of the Society running the school.

5. There is not a single instance pointed out to show that the students or the parents or any employee made a grievance about the non-distribution of books. We do not find any specific instance that because of the acts of commission or omission on the part of respondent No.8, the institution has suffered or that some action was taken against the institution.

6. If the respondent No.8 has committed some acts of malfeasance or misfeasance, the Management is responsible to take action against him.

7. If the complaint as made by the petitioner is not properly addressed by the Management, the petitioner has to approach the Director, Education Department under the Rules or Regulations as contemplated under Section 4A of the MEPS Act. Thereupon, it is for the Authority to take further action.

8. In absence of any specific details whereby the institution was put to loss or the student or other employees suffered, it is not possible to entertain the petition on the basis of vague submissions.

9. Writ petition is disposed of. No costs.

(DHIRAJ SINGH THAKUR , J.) (S.V. GANGAPURWALA, J.)