

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

WRIT PETITION NO.4031 OF 2019

Shailendra Mallikarjun Dabbawar, Patanbori, Tah. Kelapur, Dist. Yeotmal

-vs-

The Regional Deputy Commissioner, Social Welfare Dept. Amravati Division, Amravati and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. N. Patre, Advocate for petitioner.

Shri D. P. Thakare, Additional Government Pleader for respondent
Nos.1, 2 and 5.

Shri Y. P. Kaslikar, Advocate for respondent Nos.3 and 4.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : September 29, 2022

P.C.

The petitioner was serving on the post of Assistant Teacher at the Ashram School-respondent No.4 which is conducted by the respondent No.3. His services came to be terminated on 19/10/2010. Being aggrieved, the petitioner preferred an appeal before the respondent No.1 who dismissed the same on merits on 10/04/2018. Being aggrieved, the aforesaid order has been challenged.

The learned counsel for the parties do not dispute that since the petitioner is an employee of Ashram School, the remedy to challenge the order of termination lies with the School Tribunal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977

(for short, the Act of 1977). This is in view of the judgment of the Division Bench in *Latika Rajaram Mane vs. State of Maharashtra and ors.* **2013 (4) Mh.L.J. 244**. The learned counsel also pointed out a similar controversy being decided in Writ Petition No.491/2020 (*Sant Dhyaneshwar Bahu Uddeshiya Mandal, Dhaba vs. Regional Deputy Commissioner, Social Welfare Department, Amravati and ors.*) on 17/12/2021.

In view of aforesaid, the following order is passed :

- (i) The order dated 10/04/2018 passed by the respondent No.1 in Appeal No.10/2010 is set aside for want of jurisdiction.
- (ii) The petitioner is at liberty to file an appeal under Section 9 of the Act of 1977 for challenging the order of termination dated 19/10/2010.
- (iii) If such appeal is preferred within a period of three weeks from today, same shall be entertained on merits without going into the question of delay.
- (iv) All points on merits are kept open for being raised and considered by the School Tribunal.
- (v) The petitioner is at liberty to request the learned Presiding Officer to decide the appeal expeditiously in the light of the fact that the order of termination is dated 19/10/2010.

Rule is made absolute in aforesaid terms with no order as to costs.