

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

WRIT PETITION NO.954 OF 2016

1. Maharashtra Vidya Prasarak Mandal,
Khamgaon, registered Society registered
under Societies Registration Act bearing
Registration No.F/269, also registered
under Bombay Public Trusts Act through
its
a) Vice President,
Ashok Gopal Modhe, Aged about 75
years, Occu: Agriculturist, R/o
Dhamangaon (Bade), Tq. Khamgaon,
Distt. Buldana

b) Founder Member,
Dayaram Bhaurao Mali,
Aged about 80 years, Occu: Retired
Teacher, R/o Keshav Nagar, Ghatpuri
Road, Opposite Aaisaheb Mangal
Karyalaya, Khamgaon, Tq. Khamgaon,
Dist. Buldana.
2. Sant Sakharam Maharaj Maharashtra
Vidyalaya, Madakhed, Tq. Jalgaon
(Jamod), Distt. Buldana, through its
Incharge Headmistress, Sau. Uma Babulal
Tayde, Aged 39 years, Occu: Service,
R/o Madakhed, Tq. Jalgaon (Jamod),
Distt. Buldana.

...PETITIONERS

---VERSUS---

1. Anand S/o Nandkumar Chopde,
Aged about 27 years, Occu: Service, R/o
At Post Akola (Khurd), Tq. Jalgaon
(Jamod), Distt. Buldana.
2. State of Maharashtra, through its
Secretary, Ministry of Secondary
Education, Mantralya, Mumbai-32.
3. Deputy Director of Education, Amravati
Region, Amravati.
4. Education Officer (Secondary)
Zilla Parishad, Buldana,
Tq. & Dist. Buldana.

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R/o Madakhed, Tq. Jalgaon (Jamod),
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...PETITIONERS

---VERSUS---

1. Nitin s/o Vasant Lawange
Aged about 37 years, Occu: Service,
R/o At Post Pophali, Tq. Motala,
Distt. Buldana.
2. State of Maharashtra, through its
Secretary, Ministry of Secondary
Education, Mantralya, Mumbai-32.
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Road, Opposite Aaisaheb Mangal
Karyalaya, Khamgaon, Tq. Khamgaon,
Dist. Buldana.

2. Maharashtra Vidyalaya, Khamgaon
through its Incharge Headmaster, Ramdas
Baliram Shingne, Aged 54 years, Occu:
Service, R/o Khamgaon, Distt. Buldana.

...PETITIONERS

---VERSUS---

1. Ram s/o Ashruba Dakhore,
Aged about 25 years, Occu: Service,
R/o At Post Titvi, Tq. Lonar,
Distt. Buldana.
2. State of Maharashtra, through its
Secretary, Ministry of Secondary
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Vidyalaya, Madakhed, Tq. Jalgaon
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Incharge Headmistress, Sau. Uma Babulal
Tayde, Aged 39 years, Occu: Service,
R/o Madakhed, Tq. Jalgaon (Jamod),
Distt. Buldana.

...PETITIONERS

---VERSUS---

1. Uddhav s/o Tukaram Shelke,
Aged about 26 years, Occu: Service,
R/o At Post Peth, Tq. Chikhali,
Distt. Buldana.
2. State of Maharashtra, through its
Secretary, Ministry of Secondary
Education, Mantralya, Mumbai-32.
3. Deputy Director of Education, Amravati
Region, Amravati.

4. Education Officer (Secondary)
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through its Incharge Headmaster, Ramdas
Baliram Shingne, Aged 54 years, Occu:
Service, R/o Khamgaon, Distt. Buldana.

...PETITIONERS

---VERSUS---

1. Vijay s/o Arjun Ambhore,
Aged about 25 years, Occu: Service,
R/o At Post Titvi, Tq. Lonar,
Distt. Buldana.

2. State of Maharashtra, through its Secretary, Ministry of Secondary Education, Mantralya, Mumbai-32.
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 - b) Founder Member, Dayaram Bhaurao Mali, Aged about 80 years, Occu: Retired Teacher, R/o Keshav Nagar, Ghatpuri Road, Opposite Aaisaheb Mangal Karyalaya, Khamgaon, Tq. Khamgaon, Dist. Buldana.
2. Sant Sakharam Maharaj Maharashtra Vidyalaya, Madakhed, Tq. Jalgaon (Jamod), Distt. Buldana, through its Incharge Headmistress, Sau. Uma Babulal Tayde, Aged 39 years, Occu: Service, R/o Madakhed, Tq. Jalgaon (Jamod), Distt. Buldana.

...PETITIONERS

---VERSUS---

1. Anil s/o Baliram Unde,
Aged about 38 years, Occu: Service,
R/o Savargaon Nehu, Post Monabad, Tq.
Nandura, Distt. Buldana.
2. State of Maharashtra, through its
Secretary, Ministry of Secondary
Education, Mantralya, Mumbai-32.
3. Deputy Director of Education, Amravati
Region, Amravati.
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...RESPONDENTS

Shri D.R. Khapre, Advocate for the petitioners in all petitions.
 Ms J.A. Patil, Advocate for respondent no.1. (In all WPs except W.P. No.956/2016)
 Shri Anjan De, Advocate for respondent no.1 (W.P. No.956/2016)

CORAM : AMIT B. BORKAR, J.
DATED : JULY 19, 2022.

ORAL JUDGMENT :

1. **Rule.** Rule is made returnable forthwith. Heard finally by consent of the parties.
2. The facts and questions of law involved in these petitions are common and therefore are being disposed of by the common judgment.
3. The Management is challenging the order passed by the School Tribunal in the exercise of power under Section 9 of the

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act (for short, "**MEPS Act**"). Respondent no.1 in all petitions are teachers appointed by petitioner no.1 Trust on the post of Shikshan Sevak in 2011. They were appointed to the post reserved for the Other Backward Class category. However, after the completion of two years period, their services were terminated based on the order passed by the Education Officer directing the Management to terminate their services. The order passed by the Education Officer was challenged by the petitioners by way of Writ Petition No.3946 of 2013, and this Court, by order dated 24.10.2013, dismissed the said writ petition observing that the appointment orders issued in favour of respondent no.1 are not in accordance with provisions of Act, Rules or Memorandum of Association of the Society.

4. Respondent no.1 in all petitions therefore filed appeals under Section 9 of the MEPS Act challenging the termination on the ground that they were deemed to be permanent under the provisions of the MEPS Act. The School Tribunal, by impugned judgment and order, allowed the appeals filed by respondent no.1 in all petitions directing the Management to reinstate respondent no.1 in their post of Shikshan Sevak along with continuity of

service with back wages. Accordingly, the said order is the subject matter of challenge in these petitions.

5. Shri D.R. Khapre learned Advocate submitted that in view of the order passed by this Court in Writ Petition No.3946 of 2013, which was not open for the School Tribunal to hold respondent no.1 became permanent or entitled to the reinstatement of service. In view of the positive finding recorded by this Court that the appointment of respondent no.1 was not in accordance with Act, Rules or Memorandum of Association.

6. Ms J.A. Patil, learned Advocate for respondent no.1 submitted that the appointments of respondent no.1 in all petitions were after following due process of law and were qualified for being appointed on the said post. Therefore, School Tribunal was justified in directing the reinstatement of respondent no.1. According to her, 12 persons had filed Writ Petition No.3946 of 2013, and the present respondent no.1 in the present group of petitions are the persons who were qualified and appointed after following due procedure of law. According to her, the finding recorded by this Court was in relation to the other six persons who were either not qualified or were appointed without following due process of law.

7. Ms H.N. Jaipurkar, learned AGP supported the order of Education Officer. According to her, the Education Officer had rightly passed the order directing the termination of service of respondent no.1 in all petitions.

8. Having carefully considered the submissions of both parties and after going through the order dated 24.10.2013, in my opinion, the School Tribunal was not justified in directing the reinstatement of respondent no.1, holding that respondent no.1 had no role to play in their appointments. The School Tribunal also held that respondent no.1 was qualified for being appointed to the said post, and therefore the Management was not justified in terminating their services. It is also finding recorded by the School Tribunal that merely because the Education Officer refused to grant approval, the same would not be a ground for termination of service of a teacher who is otherwise qualified under the provisions of the Act.

9. In my opinion, this Court, in Writ Petition No.3946 of 2013, has held that the appointment of respondent no. 1 in all petitions was not in accordance with the provisions of the Act and

Rules. Therefore, in the teeth of the said finding, it was not open for the School Tribunal to record a finding inconsistent with the order passed by this Court.

10. On independent verification of the validity of the appointment of respondent no.1 in all petitions it appears that they were qualified and were appointed after following due procedure of law. In that view of the matter, it is necessary to balance the parties' rights by passing an order that would serve the interest of justice. In that view of the matter, the following orders serve the interest of justice.

11. The orders dated 22.04.2015 passed by the Presiding Officer, School Tribunal, Amavati in respective appeals are modified by directing that respondent no.1 in all petitions shall be reinstated in service w.e.f. 01.08.2022 as fresh Shikshan Sevak . It is made clear that respondent no.1 herein in all petitions shall not be entitled to claim either back wages or continuity in service.

12. In the peculiar facts of the case, the Education Officer (Secondary), Zilla Parishad, Buldana, shall grant the approval to the fresh appointment of respondent no.1 in all petitions from 01.08.2022.

13. The petition is therefore disposed of. Rule is made partly absolute in the above terms. No costs. Pending civil application (s), if any, stand disposed of.

JUDGE

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