

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

WRIT PETITION NO.14988 OF 2021

**PEOPLE'S EDUCATION SOCIETY AND ANOTHER
VERSUS
SANDIP BABURAO PATHARE**

Advocate for Petitioners : Mr. Sanjay N. Pagare
Advocate for Respondent : Mr. Zaidi Ali Zeeshan M.

**CORAM : NITIN B. SURYAWANSHI, J.
DATE : 26th SEPTEMBER, 2023**

PER COURT :

1. By this petition filed under Article 226 and 227 of the Constitution of India, petitioners challenge order dated 24/07/2020, passed by learned Member, Industrial Court, Aurangabad, in Revision (ULP) No.103/2014, thereby dismissing revision filed by petitioners challenging order dated 04/08/2012, passed by Labour Court, Aurangabad, in Complaint (ULP) No.30/2006.

2. Admitted facts can be stated in short are as follows,

Respondent/complainant was appointed as peon on daily wages, in class-IV category, by order dated 04/07/2003, with petitioner No.2. He joined service on 09/07/2003. Respondent filed complaint before Labour Court, Aurangabad, contending that his services are terminated with effect from 13/03/2006 on the ground of alleged misconduct, without conducting inquiry and without complying with mandatory provisions of Section 25-F of the Industrial Disputes Act. Petitioners opposed complaint by filing

written statement. Labour Court, after hearing the parties, allowed the complaint and set aside impugned termination order and directed to reinstate complainant with continuity of service and full back-wages from 14/03/2006. This order is unsuccessfully challenged by petitioners by filing revision. Hence, present petition.

3. Heard learned advocate for petitioners and learned advocate for respondent. Perused writ petition memo, annexures thereto, impugned order and the record and proceedings.

4. It is not in dispute that, services of respondent/complainant were terminated on the alleged ground of misconduct, without holding any inquiry. Petitioners claimed before Labour Court that complainant was illegally appointed, without following due procedure. The said contention is negated by Labour Court observing that documents placed on record by complainant clearly show that complainant was appointed with permission of respondent No.1 society. Respondent had placed on record letter dated 25/04/2003 at Exhibit U-18, issued by Principal/second petitioner addressing to Chairman of People's Education Society, thereby informing that there is no watchman in College as well as in Boy's Hostel and requesting to permit Principal to appoint two peons/watchmen on consolidated salary of Rs.2,000/-. Member Secretary of the Society has passed remarks on said letter permitting Principal to appoint two watchmen/peons on

consolidated salary of Rs.2,000/-. Pursuant to the said permission, appointment order dated 04/07/2003 is issued to complainant.

5. Perusal of record further reveals that by letter dated 08/03/2006 issued by second petitioner, complainant was informed that in spite of repeated oral instructions, complainant has not improved his work, he was behaving indecently with superior officers and he was not remaining present on duty in time, therefore, his explanation was called within two days from receipt of letter. Complainant has replied to said letter on 13/03/2006 denying commission of alleged misconduct. Admittedly, no inquiry is conducted by petitioners into the alleged misconduct committed by complainant. In that view of the matter, Labour Court has rightly held that, termination order issued to complainant is illegal and has rightly set it aside. Said findings of facts are confirmed by Industrial Court, Aurangabad, in revision.

6. Labour Court has given sound reasons while allowing complaint filed by respondent and Industrial Court has upheld the findings recorded by Labour Court. Petitioners have failed to make out any ground to interfere in concurrent findings of fact recorded by Labour Court and Industrial Court, in exercise of extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)