

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

WRIT PETITION NO.4447 OF 2022

Dr. Pravina w/o Pramod Shah,
aged 56 years, Occupation- Service,
r/o Jainam Apartments,
Bhagatsingh Chowk, Khamgaon,
Dist. Buldhana.

..... **PETITIONER**

...V E R S U S...

1. State of Maharashtra through its
Secretary, Department of School Education
and Sports, Mantralaya, Mumbai – 32.
2. The Deputy Director of Education,
Amravati Division, Amravati.
3. The Education Officer (Secondary)
Zilla Parishad, Buldhana.
4. The Social Welfare Officer,
Social Welfare Office, Milind Nagar,
Buldana – 443 001.
5. The National Education Society, Khamgaon,
through its Secretary, office at A.K. National
High School and Junior College,
Khamgaon – 444303.

..... **RESPONDENTS**

Mr. A. D. Bhate, Advocate for Petitioner.
Mrs. Kalyani R. Deshpande, AGP for Respondents 1 to
4/State.
Mr. C. R. Sharma, Advocate for Applicants/Intervenors.

CORAM: **ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.**
DATE: **16th MARCH, 2023.**

ORAL JUDGMENT: **(PER ROHIT B. DEO, J.)**

Rule. Rule made returnable forthwith. By consent of the parties heard finally.

2. The petitioner is working as Head Mistress of Shri Arjan Khimji National High School and Junior College, Khamgaon managed by respondent 5 – Institution.

3. The petitioner asserts that she has rendered unblemished service for 27 years without giving any opportunity to the employer to have any complaint as regards the discharge of duties.

4. The petitioner further asserts that the Institution is plague by a factional rivalry and disputes are pending before the authority under the Maharashtra Public Trust Act.

5. The petitioner asserts that the Social Welfare Department has released funds to cater to the scholarship entitlement of the students. The funds were released in the year 2013 and were to be utilized for the scholarship entitlement of the students from 2002 till 2012. The management and the school committee resolved to disburse the funds. The petitioner acted

pursuant to the resolution of the management and deposited the amount received from the Social Welfare Department in different bank accounts maintained by the trust and school. The petitioner asserts that every pie is accounted for.

6. The petitioner claims that one group within the management approached the Education Officer seeking permission to suspend the petitioner pending an inquiry in the alleged misappropriation of scholarship funds. The petitioner contends that the Education Officer transgressed his statutory power and role and set up an inquiry committee comprising two Deputy Education Officers, and certain other officers. No representative of the Social Welfare Department which disbursed the scholarship amount was included in the inquiry committee.

7. The petitioner was summoned by the inquiry committee. She appeared and submitted her elaborate explanation. She also objected to the jurisdiction of the inquiry committee.

8. The petitioner contends that the inquiry committee submitted report dated 27.04.2022 in which it is observed that the

petitioner is partly guilty of misappropriation of scholarship funds. The management acted on the inquiry report and convened meeting on 17.05.2022 to take an appropriate decision. Apprehending serious civil consequences in view of the observations in the inquiry report, the petitioner approached this Court.

9. We are not inclined to, and indeed are not required to, delve deeper in the submission of Mr. Bhate that the petitioner shall be prejudiced by the observations in the inquiry report.

10. We have no hesitation in holding, that the observations in the inquiry report shall not prejudice the petitioner. The inquiry committee was not constituted by an authority envisaged under section 4-A of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act). All that can be said is that the inquiry committee was set up by the Education Officer in exercise of administrative power only in order to arrive at some *prima facie* view as regards the utilization of the scholarship amount. The management, or at least one group of the management claims that notice is issued to the petitioner asking her to show cause. Copy of the notice is also

placed on record. We clarify, that if the management decided to act against the petitioner departmentally, the management shall be obligated to prove the misconduct, if at all, in a regular departmental inquiry conducted under the provisions of the MEPS Act.

11. We may further observe, that the apprehension of Mr. Bhate that the petitioner shall be prejudiced can be allayed by observing that the petitioner shall not be prejudiced by any finding recorded against her in the report submitted by the inquiry constituted by the Education Officer and the alleged misconduct, if any, can only be proved in the inquiry constituted under the provisions of the MEPS Act, on its own merit, on the basis of evidence adduced in the inquiry, and independently of any observation in the inquiry report which is impugned.

12. The petition is disposed of in the aforestated terms.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)