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

WRIT PETITION 5796 OF 2018

1. Rambhau Dadaji Bhajankar,
aged about 5 years,
r/o. Gurudeo Chowk, Mouda,
Tahsil Mouda, District Nagpur.

2. Ku. Savitri Manikrao Gaidhane,
aged about 50 yrs,
r/o.Behind Primary School,
At Post Mouda, District Nagpur

3. Ashok Raghunath Meshram
aged about 52 yrs,
R/o. Tahsil Mouda, District Nagpur

4. Siddharth Mahadeo Kanekar,
aged about 52 yrs,
R/o. Gurdeo Mohalla, Mouda,
Tahsil Mouda, District Nagpur.

5. Yogendra Harishchandra Aswale,
aged about 34 yrs,
r/o. Rahadi, Post Mouda,
Tahsil Mouda, District Nagpur.

6. Suresh M. Barai,
aged about 50 yrs,
R/o. Sneha Nagar, Behind Janata
Convent, Mouda,
Tahsil Mouda, District Nagpur. .....PETITIONERS

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

1. State of Maharashtra
Department of Education,
through its Secretary, Mantralaya,
Mumbai 32

2. Director of Education,
Pune, Maharashtra State

3. Dy. Director of Education,
Nagpur Division, Nagpur

4. The Education Officer (Sec.),
Zilla Parishad, Nagpur ..RESPONDENTS

Mr. P.P. Thakare, counsel for petitioners.
Mr. M.K. Pathan, AGP for respondents 1 to 4/State.

CORAM:- ROHIT B. DEO & Y.G. KHOBRAGADE, JJ.
DATE : 08.02.2023

JUDGMENT (Per: Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

3. It is not in dispute that the petitioners were working as full time approved teaching and non-teaching staff with Lokmanya High School, Mouda, District Nagpur which was a grant-in-aid school managed by Utkarsha Shikshan Prasarak Society, Mouda.

4. The petitioners were terminated from service vide order dated 15.5.2008 with effect from 9.5.2008. The reason given for termination was that the management was not in a position to run the school.

5. The terminations were assailed in Appeal 9/2008. The School Tribunal stayed the order of termination after hearing the stakeholders. The order of stay was assailed in Writ Petition 113/2009 which the High Court dismissed vide order dated 8.4.2009. The Management withdrew the termination order by filing a praecipe in that regard before the School Tribunal on 26.6.2009. In view of the praecipe, the School Tribunal allowed the appeal and directed the Management to reinstate the petitioners with continuity of service and full back wages vide judgment dated 15.7.2009.

6. The Deputy Director of Education was constrained to make an enquiry into the affairs of the institution. The authority found that the basic infrastructure was lacking. The authority directed closure of the school vide order dated 12.4.2010 by invoking power under Clause 7.4 of the Secondary School Code. However, the authority did protect the interest of the teaching and non-teaching staff, who were permanent and approved.

7. The institution preferred an appeal challenging the order of closure, which the appellate authority dismissed. The

Management challenged the dismissal of appeal in Writ Petition 5887/2010. The High Court remanded the matter to the Director of Education – appellate authority for fresh adjudication. However, after hearing the parties including the petitioners, the appellate authority confirmed the order of closure. In the present petition, the limited grievance is that the petitioners, who were full time approved teaching and non-teaching staff, have not been given benefit of Rules 25-A and 26 of the Maharashtra Employees of Private School (Conditions of Service) Rules, 1981 ("MEPS Rules"). The petitioners contend that till date neither the Management nor the authority has taken steps to absorb the petitioners, to which relief the petitioners are statutorily entitled.

8. The Education Officer (Secondary), Zilla Parishad, Nagpur has filed an affidavit in response dated 21.1.2023. The entitlement of the petitioners to absorption is not per se denied. The stand of the Education Officer is that the Management did not take any step to assist the authority to initiate the process of absorption. In particular, the Education Officer contends that the Management and the concerned Headmaster did not make available the necessary date *inter alia* in respect of the details of the approved staff as would have enabled the authority to take

steps to absorb the petitioners.

9. We are not inclined to delve deeper into the reasons spelt out by the authority. We find that the petitioners were, as a fact, entitled to absorption inasmuch as the petitioners were irrefutably approved full time teaching and non-teaching staff of the aided school.

10. In this view of the matter, we direct the respondents to verify the record, if necessary by summoning such persons as the authority deem fit, and to ensure that the grievance of the petitioners is redressed by absorbing them consistent with the mandate of the statutory provisions.

11. We hope and expect that the respondents shall do the needful and conclude the process of absorption, as expeditiously as possible, and preferably within the next three months.

12. Petition is allowed in the aforestated terms.

(Y.G. Khobragade, J.) (Rohit B. Deo, J.)

belkhede

Digitally Signed By:BELKHEDE RAVINDRA SURESHRAO
P.A. to the Hon'ble Judge

Signing Date:10.02.2023 10:46