

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

Writ Petition No. 8124 of 2022

[Shri Harshad R. Ghatole ..vs.. Dy. Director of Education, Nagpur Division, Nagpur and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. P. Thakare, Advocate for the petitioner
Smt. K. S. Joshi, Addl. G.P for the State/respondent 1
Mrs. R. P. Jog, Advocate for respondents 2 and 3

**CORAM : ROHIT B. DEO AND
Y. G. KHOBRADE, JJ.**

DATED : 22-2-2023

The petitioner is questioning the refusal of the management to permit a retired employee to represent the petitioner as the nominee in the departmental enquiry.

2. The submission of learned counsel Mr. Thakare is that the principle articulated in the Full Bench decision in *Shikshan Prasarak Mandal and ors. Vs. Ramesh Bhimrao Narayankar and ors.* in Writ Petition 126/2012 and other connected matters dated 10-3-2016 is squarely applicable and that the definition of employee in Section 2(7) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 cannot be bodily incorporated in Rule 36(2)(a)(ii) of the

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981.

3. Learned counsel Mrs. Jog would submit that the Full Bench decision can be distinguished in as much as the issue was whether the awardee teacher, who has superannuated, can be a member of the enquiry committee. We are not required to answer the question involved.

4. We note that learned counsel Mrs. Jog fairly states that the only anxiety of the management is that the employee shall not raise any objection to the constitution of the enquiry committee at a later stage, and argue that despite his stand in the present petition, he could not have waived statutory requirement.

5. We make it abundantly clear that since it is at the insistence of the employee that the management is now willing to permit a retired employee Mr. H. V. Gokhale to represent the petitioner as his nominee, the petitioner shall not raise any objection to the constitution of the committee on the ground that despite the petitioner's insistence, Mr. Gokhale could not have been appointed in view of the language of the statutory provision.

6. In view of the mutual understanding arrived at,
we dispose of the petition.

(Y. G. Khobragade, J.)

(Rohit B. Deo, J.)

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