



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

Writ Petition No.7532 of 2022

**NAVJEEVAN SOCIETY AMRAVATI THR. ITS DIRECTOR/PRESIDENT,
AMRAVATI AND ANOTHER**

VS

BHAGYASHRI KUNJILALJI CHANDANKAR AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.A. Kothale, Advocate for the Petitioner/s
Ms Radhika Bajaj, Advocate for the respondent No.1
Shri C.A. Lokhande, AGP for the Respondent No.2/State

CORAM : ANIL S. KILOR, J.
DATED : 08.01.2024

1. Heard.
2. In the present matter, a challenge is raised to the validity and correctness of the judgment and order dated 29.08.2022 passed by the learned School Tribunal, Amravati in Appeal No.54 of 2019, partly allowing the appeal preferred by the respondent No.1 and thereby, quashing and set aside the termination order dated 29.06.2019 and further permitting the management to start fresh inquiry by following the due procedure of law.
3. It is case of the petitioners that, the matter was time to time adjourned for hearing and even it was adjourned after the written notes of argument was filed by the management and on the date of judgment. Since the learned counsel for the management was not available, an application for adjournment was moved. It is submitted that, the same was rejected and the impugned judgment was passed. It is submitted that hence, no opportunity

of being heard was granted to the petitioners. It is submitted that if such opportunity would have granted, the result might have been different, as the management could be in position to point out how the inquiry conducted, was just and proper and there is no need of fresh inquiry.

4. It is submitted that the appeal was partly allowed on the ground that the learned Tribunal has found the inquiry conducted by the petitioners is defective. It is therefore, prayed that the matter may be remanded back to the School Tribunal for giving opportunity of being heard.

5. The learned counsel for the appellant/respondent No.1 strongly opposes the request made by the management and she submits that despite sufficient opportunities were granted to the management, the management failed to argue the matter and therefore, such opportunity need not to be granted. She has further submitted that on merits, the learned Tribunal has rightly held that the inquiry was defective and no error has been committed by the learned Tribunal in partly allowing the appeal.

6. In light of the rival submissions, I have perused the record and the impugned order.

7. There is no dispute that the learned Tribunal has partly allowed the appeal against the appellant on the ground that the inquiry conducted against the appellant was defective and there was no compliance of Rules 33, 34, 36 and 37 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 (MEPS Rules 1981). As the

learned counsel for the petitioners has argued that no opportunity was provided to point out that the inquiry was just and proper and not defective, the learned tribunal has committed error in recording such findings, for the ends of justice, I am of the opinion that the petitioners are entitled for such opportunity. It appears that on the date of the judgment, the application was moved by the management, seeking adjournment as the learned counsel for the management was not available. The learned Tribunal rejected the application and proceeded with the matter for passing the judgment.

8. In the circumstances, considering the undertaking given by the learned counsel for the management that, he would argue the matter without seeking any adjournment and further the appeal may be decided in time bound manner, I am of the opinion that no prejudice would be caused to the respondent No.1. Moreover, the learned counsel for the petitioners makes a statement that the management is ready to reinstate the respondent No.1 with immediate effect, if the respondent No.1 points out the condition imposed by the Sessions Court, Achalpur, prohibiting the respondent No.1 from entering the territorial jurisdiction of Chikhaldara, has been relaxed or modified.

9. The learned counsel for the respondent No.1 makes a statement that the said order has already been modified and now there is no prohibition to enter the territorial jurisdiction of Chikhaldara, so she can join her services with immediate effect. In the above referred backdrop, I pass the following order:

- (i) The writ petition is partly **allowed**.

(ii) The judgment and order dated 29.08.2022 passed by the School Tribunal, Amravati, is hereby quashed and set aside to the extent of clauses (3) to (7). The question to maintain or to modify or annul the clauses (1) and (2) will depend upon the final outcome of the appeal, on decision on the point of fairness of inquiry.

(iii) The matter is remanded back to the learned School Tribunal, Amravati for deciding the same afresh, after hearing both the parties, on the ground of fairness of inquiry.

(iv) In the meantime, the petitioners are permitted to pay regular salary to the respondent No.1 from the date of reinstatement, till the final decision by the Tribunal.

(v) The learned School Tribunal shall also decide the point in respect of backwages in case, the respondent No.1 succeeds in the appeal.

(vi) The parties shall appear before the School Tribunal, Amravati on **24.01.2024 on 11.00 a.m.** along with the copy of the order of this Court and thereupon, the learned Tribunal shall decide the appeal within two months.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]