



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

WRIT PETITION NO.6506 OF 2022

1. Secretary
Parimal Shikshan Prasarak mandal
Narayan Nagar, Latur,
Tq. & Dist. Latur.
2. Head Master
Parimal Secondary & Higher Secondary School,
Narayan Nagar, Latur,
Tq. & Dist. Latur.

.....PETITIONER
(Ori. Resp. Nos.1 & 2)

VERSUS

1. Prahlad s/o Uttamrao Mugale
Age: 39 years, Occu: Assistant Teacher,
R/o: Plot No. 84, Sutimil Compound,
Sutimil Road, Latur,
Tq. & Dist. Latur
2. The Education Officer (Secondary),
Zilla Parishad, Latur
3. Maharudra nagannath Nargunde,
Age: 32 years, Occu: Assistant Teacher,
R/o Parimal Secondary & Higher Secondary School,
Narayan Nagar, Latur,
Tq. & Dist. Latur.

.....RESPONDENT
(Orig. Appellant)

.....RESPONDENTS
(Orig. Resp. Nos. 3 & 4)

WITH

WRIT PETITION NO.12302 OF 2022

Pralhad S/o Uttamrao Mugale
Age: 43 years, Occupation: Service (T),
R/o Plot No. 84, Sutmil Compound,
Sutmil Road, Latur, Tq. And Dist. Latur.

.....PETITIONER

VERSUS

1. Through It's Secretary,
Parimal Shikshan Prasarak
Mandal, Narayannagar, Latur,
Tq. And Dist. Latur
2. The Head Master,
Parimal Secondary and Higher
Secondary School, Narayannagar,
Latur, Tq. And Dist. Latur.
3. The Education Officer (Secondary)
Zill Parishad, Latur Tq. And Dist. Latur.
4. Maharudra Jagannath Nargunde
Age: 36 years, Occupation: Asst. Teacher,
R/o Parimal Secondary and Higher
Secondary School, Narayannagar,
Latur, Tq. And Dist. Latur.
5. The State of Maharashtra
Through Secretary of
School Education and Sport
Department, Mantralaya,
Mumbai. 32

.....RESPONDENTS

Mr. V. D. Salunke, Advocate for petitioner in W.P.
No.6506/2022 and for respondent nos.1 and 2 in W.P.
No.12302/2022

Dr. Mr. R. J. Godbole, Advocate for petitioner in W.P.
No.12302/2022 and for respondent no.1 in W.P.6506/2022

Mr. N. N. Jagadale, Advocate for respondent no.3 in W.P.
No.6506/2022 and for respondent no.4 in W.P.
No.12302/2022

Mr. V. M. Chate, AGP for respondents-State

CORAM : ROHIT W. JOSHI, J.
RESERVED ON : 18TH JULY, 2025
PRONOUNCED ON : 28TH JULY, 2025

JUDGMENT :-

- . Rule. Rule made returnable forthwith.
2. Heard finally with consent of parties.
3. The present petitions arise out of judgment and order dated 20.04.2022, passed by the learned Presiding Officer, School Tribunal, Latur in appeal no.10 of 2019. Writ Petition No.6506 of 2022 is filed by the management challenging direction for reinstatement in service. Writ Petition No.12302 of 2022 is filed by the employee challenging denial of back wages.
4. The respondent no.1 was appointed as Assistant Teacher with Parimal Secondary and Higher Secondary School, Latur, which is a school run by the petitioner no.1/trust.
5. The respondent no.1 was appointed as Assistant Teacher with the said school vide appointment order dated 24.05.2005. He was thereafter confirmed in service after

completing period of probation. The services of the respondent/employee were approved by the Education Officer.

6. The respondent/employee filed appeal against the petitioners and the respondent nos.2 and 3, being appeal no.13 of 2015. It is the case of the respondent/employee that after he had completed the probation period successfully and the school was admitted to grant-in-aid, the management started harassing him. It is contended that the petitioners did not allow him to sign the muster/attendance register since commencement of academic session, June, 2013; and that he had issued various letters to the petitioner no.2 and to the respondent/Education Officer in this regard. According to the respondent/employee, he had issued a registered letter dated 20.06.2013 to the respondent no.2 making grievance about not providing muster roll for signing. The respondent/employee contends that while he was appointed in service, the management had obtained two undated documents written and signed from him; one being a notice of resignation and another being a resignation letter. He contends that after the

school was admitted to grant-in-aid, the management used to threaten to misuse the said documents and to expel him from service. The respondent/employee contends that these two undated documents were fabricated by the petitioners by inserting date to make a show that the respondent/employee had tendered resignation from service.

7. The respondent/ employee has stated that from June, 2013 onwards, he was not allowed to sign the muster and in the meantime from July, 2013 to December, 2013, he was suffering from Cervical spondylosis and C.V. B.I. C vertigo. He states that on 21.12.2023, he went to the school alongwith medical fitness certificate, but was not allowed to resume duties. He alleges that he had issued letters and remainders from January to March, 2014 requesting the petitioners to permit him to join duties. He has further stated that from May, 2013 to January, 2015, the said problem relapsed. According to him, when he went to resume service in January, 2013, he was not again allowed to join duties. He states that in such circumstance, he made application under the Right to Information Act, demanding copies of muster roll of the

school from the year, 2005 to 2014-15. It is stated that initially, the documents were not provided by the Head master, who is the Public Information Officer of the school. It is stated that subsequently on appeal being filed, documents were provided by the Head Master vide letter dated 15.05.2015. The respondent/employee states that he realized that his undated notice of resignation and resignation letter were misused on receiving relevant documents from Head master on 15.05.2015. He states that he made further correspondence for obtaining copies of the resignation letters, which were not provided and therefore, he made communication with the office of Deputy Director and on his intervention, copies of the notice of resignation, resignation letter and resolution by the management were provided to him.

8. The respondent/employee filed the appeal challenging the resolution dated 21.07.2013, passed by the petitioner/management, accepting his alleged resignation. This resolution is challenged stating that the said resolution amounts to otherwise termination. The notice of resignation

and the resignation letter bear the date 22.03.2013 and 20.06.2013, respectively. The resignation letter dated 20.06.2013 recites that the same is sent by registered post.

9. Petitioner appeared and filed reply opposing the appeal. It is his contention that the resignation was tendered by the respondent/employee of his own violation and that the resignation letter and the notice of resignation are genuine documents. It is stated in the written statement that notice of resignation and resignation letter are in the handwriting of the respondent/employee and the resignation letter is received by registered post. It is stated that the respondent/employee was interested in running private coaching classes and that he and his wife had started coaching classes under the name and style of Dnyanesh Coaching Classes, which was the actual reason for the respondent/employee tendering resignation from service. All adverse allegations in the memorandum of appeal were denied by the respondent.

10. It will be pertinent to mention that there was a delay in filing of the appeal. As a consequence of this, the

respondent/employee had filed an application for condonation of delay. The said application was allowed by the learned Tribunal.

11. The order of condonation of delay was challenged by the petitioners by filing of petition, being Writ Petition No.9024 of 2019, which was partly allowed vide order dated 24.07.2019 by maintaining the order of condonation of delay and directing that the respondent/employee will not be entitled to back wages from the date of alleged termination till 21.09.2015, i.e. the date of filing of appeal, in the event the appeal was allowed.

12. The learned Tribunal has partly allowed the appeal vide judgment and order dated 20.04.2022, *inter alia* quashing and setting aside the alleged resignation letter dated 20.06.2013 and resolution dated 21.07.2013, accepting the same and further issuing directions to the petitioners (respondents in appeal) to reinstate the respondent/employee in service with continuity and other benefits without back wages.

13. The learned Tribunal has observed that the dates mentioned in the notice of resignation and the resignation

letter appear to be incorporated afterwards. It is observed that the dates did not appear to be written in continuity while writing the letter. It is observed that although, the dates as well as other contents of the letter are in blue ink, the date is written by using some different pen. It is observed that shades of blue ink in which the contents of the notice of resignation and resignation letters are written and the shade of ink in which the dates are mentioned thereon are different. The learned Tribunal has also placed reliance on affidavit of one P.T. Pawar, who appears to be a signatory to the resolution of 21.07.2013 as President of the trust, under whose Chairmanship, the meeting dated 21.07.2013 is stated to be conducted. The said Shri Pawar has stated that no such meeting was held in which the resignation tendered by employee was accepted.

14. In view of such findings, the learned Tribunal deemed it appropriate to grant relief of reinstatement in service with continuity on arriving at finding that the resignation letter was not a genuine resignation. However, the learned Tribunal has not granted relief of back wages to the respondent/employee

on the ground that he had not pleaded in the memorandum of appeal that he was not gainfully employed elsewhere from the date of termination of service and thereafter.

15. Mr. V. D. Salunke, the learned Advocate for the petitioner criticises the judgment by contending that the respondent/employee had initially issued notice of resignation, which was followed by a resignation letter. He contends that admittedly both these documents are in the hand writing of the respondent/employee. He argues that the resignation letter is in fact received by registered post. He therefore contends that the learned Tribunal ought to have accepted the case of the petitioners that the respondent/employee had tendered resignation voluntarily. He further contends that the dates in the resignation letter are not written in different ink. He contends that the same are in the hand writing of the respondent/employee. He further submits that in any case, the resignation letter was received by registered post, which rules out any possibility of mischief by the management.

16. Mr. Salunke further argues that the learned Tribunal

has erred in placing reliance on affidavit filed by the President of the society. He contends that such affidavits cannot be read in evidence. According to Mr. Salunke, if the respondent/employee desired to place reliance on the affidavit, the President ought to have been examined as a witness so as to enable petitioners to conduct his cross-examination. Mr. Salunke further contends that the respondent/employee had not disputed that tuition classes were being run in the name of his wife. His contention is that explanation of petitioners that respondent wanted to tender resignation for running the tuition classes alongwith his wife should have been accepted by the learned Tribunal.

17. The above submissions are made by Mr. Salunke, without prejudice to his principal contention that appeal against resignation is not maintainable. He contends that the School Tribunal did not have any jurisdiction to hold that the resignation is not a genuine document. The contention of Mr. Salunke is that jurisdiction of the School Tribunal is restricted to entertain appeals against dismissal or removal from service or otherwise termination. He contends that resignation by an

employee does not fall within the jurisdiction of the learned Tribunal.

18. Per contra, Mr. Godbole, the learned Advocate for the respondent/employee argues that creation of false resignation and making show of acceptance of the same amounts to 'otherwise termination' and the Tribunal has the jurisdiction to entertain appeal filed by an employee of a private school raising grievance with respect to otherwise termination. He contends that the preliminary objection raised by the petitioners is liable to be rejected.

19. As regards merits of the matter, the learned Advocate contends that a clear finding of fact is recorded by the learned Tribunal that there is change in ink in the dates mentioned in the notice of resignation and resignation letter. It is his contention that it has all throughout been his case that the petitioner/management had obtained undated notice of resignation and resignation letter from the respondent/employee at the time of appointment. The learned Advocate contends that a pure finding of fact is recorded by the learned Tribunal, regarding change in ink and discontinuity in writing,

which should not and rather cannot be disturbed by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India. It is his contention that the learned Tribunal has recorded findings of fact on proper appreciation of evidence and re-appreciation of evidence will not be permissible having regard to scope of jurisdiction of the present petition.

20. Mr. Godbole further contends that having allowed the appeal directing reinstatement in service with continuity, the learned Tribunal has erred in not awarding back wages for want of pleadings that the respondent/employee was not gainfully employed elsewhere after termination of his services. In this regard, he states that although, said statement is not made in the memorandum of appeal, a separate affidavit is filed confirming that the petitioner was not gainfully employed, after his services were terminated as aforesaid. The learned Advocate states that the learned Tribunal has erred in not awarding back wages to the respondent/employee. It is his contention that once termination is found to be illegal and is set aside, relief of back wages must follow

as a matter of course.

21. With respect to the submission regarding back wages, the contention of Mr. Salunke, the learned Advocate for the petitioner/management is that the respondent employee had in fact tendered resignation because he wanted to run private tuition classes alongwith his wife and therefore, it is obvious that he was all the while in gainful employment and is therefore not entitled to back wages, even if the judgment and order passed by the School Tribunal with respect to reinstatement in service is maintained.

22. Heard the rival submissions as aforesaid. There is a serious dispute between the parties with respect to the genuineness of the resignation. The learned Tribunal has recorded categorical finding that dates in the notice of resignation and resignation letter are mentioned subsequently in a different ink. It appears from the record and proceeding of the learned Tribunal that the original documents were produced before the learned Tribunal and after the hearing was concluded, the same were returned to the petitioner/management. The petitioner/management had

produced the original record for perusal of this Court. This Court has also perused the original notice of resignation dated 22.03.2013 and resignation letter dated 20.06.2013. Perusal of the resignation letter dated 20.06.2013 will demonstrate that words 'रजिस्टर ए.डी. ने' (by registered A.D.) are clearly written in a different ink. As regards the dates in the notice of resignation dated 22.03.2013 and letter of resignation dated 20.06.2013, it needs to be mentioned that the dates and contents of letter are written by a ball pen. The contents of said letters appear to be written by a pen which has slightly thicker point than the point of the pen by which dates are mentioned. There also appears to be a slight change in the colour of ink.

23. The learned School Tribunal has formed an opinion on perusal of the original documents regarding change of ink and has arrived at a finding of fact that the dates have been mentioned subsequently in the notice of resignation and in the resignation letter. The finding of fact which is recorded by the learned Tribunal appears to be a probable finding on perusal of the originals. This Court finds no reason to arrive at a

different conclusion with respect to this finding of fact.

24. Perusal of the resignation letter further indicates that below the date, there was a line exactly below the date 28.06.2013. It is apparent that whitener is applied over the said line and thereafter, date 28.06.2013 is written above the said line. The whitener is not visible very obviously. The work is done with some finesse. However, on minute observation of the document, it is clear that there was a line drawn in the resignation letter earlier over which, whitener is applied and the date is mentioned.

25. Apart from this, there is a clear change of ink in mentioning the words by registered A.D. in the resignation letter dated 20.06.2013. In this regard, it needs to be mentioned that Section 7 of the MEPS Act provide that a resignation letter is required to be sent by registered post. It appears that word registered A.D. is incorporated subsequently in the letter in view of the said provision.

26. Mr. Salunke, the learned Advocate for the petitioner contends that the possibility of the respondent/employee mischievously issuing the resignation letter by mentioning the

words by registered A.D. in different ink cannot be ruled out. He states that there is no evidence to suggest that the alleged interpolation is by the management. The contention is liable to be rejected for more than one reasons. First of all, it is not the case of the petitioners before the learned Tribunal that the employee had deliberately written the words by registered post in a different ink. Secondly, the date also appears to have been mentioned subsequently in different ink.

27. As regards the other contention of the learned Advocate for the petitioners that appeal is not maintainable in case of resignation, the said contention is liable to be rejected. It is well settled by a catena of decisions of this Court that obtaining resignation in a wrongful manner amounts to unlawful termination of services, which can be made subject matter of appeal under Section 9 of the MEPS Act. There are several decisions where this Court has set aside resignation treating it to be otherwise termination. In this regard, reference can be made to the judgment in the matter of *Shri Sant SawtaMali Shikshan Prasarak Mandal, Tembhurni Vs. State of Maharashtra*, reported in *2008 (6) Mh.L.J. 529* and

Bahujan Vikas Mandal, Akola Vs. Manda Vithalrao Parsutkar, reported in *2011 (2) Mh.L.J. 203*. In the matter of *Bahujan Vikas Mandal* this Court has taken judicial notice of the fact that the managements adopt practice of obtaining resignation letters from the employees while issuing appointment orders in their favour.

28. In view of the above, this Court is of the opinion that the explanation of the respondent/employee that he had sent another letter dated 20.06.2013 to the Head Master asking him to provide the attendance register to him in order to enable him to sign the same and envelope of the said letter was misused to create an impression that a resignation letter was sent in the said envelope by registered post appears to be plausible explanation which the learned School Tribunal has accepted. This Court does not find any reason to take any different view in view of the evidence, which is available on record.

29. The findings recorded by the learned School Tribunal are findings of fact which are based on appreciation of evidence. The findings are not based on no evidence. The

findings cannot be said to be perverse. This Court cannot take a different view on re-appreciation of evidence.

30. In view of reasons mentioned above, it appears that view taken by the learned Tribunal is a possible view. This Court has no reason to interfere with findings of fact recorded by the learned Tribunal. The order impugned directing reinstatement in service does not warrant any interference.

31. As regards back wages, the claim is denied by the learned Tribunal on the ground that the employee has not pleaded that he was not gainfully employed elsewhere after termination of his services. The learned Counsel for the employee has drawn attention to rejoinder affidavit dated 30.11.2021 filed by the employee in the appeal, wherein a specific statement is made that the employee was not gainfully employed elsewhere since the date of otherwise termination of his services. The learned School Tribunal has denied the relief of back wages for want of pleadings regarding non gainful employment, which is contrary to the record. The management has also referred to material which may give rise to inference that the employee was conducting tuition classes

and was gainfully employed. It will be appropriate that the Tribunal revisits the issue of back wages in the light of aforesaid and other material on record.

32. Writ Petition No.12302 of 2022 filed by the employee challenging denial of back wages therefore needs to be partly allowed by remanding the matter to learned Tribunal to decide the said issue afresh in the light of material on record and law on the subject. It will be open for parties to amend the pleadings with respect to back wages and lead further evidence on the said aspect, if they so desire.

33. Writ Petition No.6506 of 2022 is **dismissed**.

34. Writ Petition No.12302 of 2022 is **partly allowed** in following terms:-

- i. Order dated 20.04.2022, passed by the learned Presiding Officer, School Tribunal, Latur in Appeal No.10 of 2019 is quashed only to the extent of denial of back wages to the appellant in the said appeal.
- ii. Matter is remanded back to the learned School Tribunal for deciding the issue of back wages afresh after hearing the parties.

iii. Parties will appear before the learned School Tribunal on 11.08.2025. Parties to note that separate notice for appearance will not be issued.

iv. The learned School Tribunal is directed to decide the issue of back wages as expeditiously as possible and in any case on or before 31.12.2025.

35. Pending Civil Applications, if any, stand **disposed** of.

(ROHIT W. JOSHI, J.)

. At this stage, learned Counsel for the petitioner/management in Writ Petition No.6506 of 2025 prays for stay to the order for period of six weeks.

2. However, in view of findings by the learned Tribunal that the notice and letter of resignation are manipulated documents, the prayer for continuation of interim relief is rejected.

(ROHIT W. JOSHI, J.)