



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4603 OF 2020

Amol s/o Dattatraya Dumanwad
Age: 33 years, Occu. Service,
R/o. Dongaon (Kh.), Post Dongaon (Bk.),
Tq. Biloli, District- Nanded.

...PETITIONER
[Orig. Petitioner]

VERSUS

1. Shri. Ramkishan Laxmanrao Dongaonkar,
President, Local Education Society,
Dongaon (Kh.), Post Dongaon (Bk.),
Taluka Biloli, District- Nanded.
2. Shri Babarao Marotrao Wanshatye
Secretary, Local Education Socieity
Dongaon (Kh.), Post Dongagon (Bk.),
Tq. Biloli, District- Nanded.
3. Shri Krishna Ramdeo Joshi,
Incharge Head Master,
Maharshi Karve Vidyalaya,
Dongaon (Kh.), Post Dongagon (Bk.),
Tq. Biloli, District- Nanded.
4. Education Officer (Secondary),
Zilla Parishad, Nanded,
Station Road, Nanded.

...RESPONDENTS
[Orig. Respondents]

Mr. S.R. Barlinge, Advocate for petitioner
Mr. Vivek J. Dhage, Advocate for respondent No. 1 and 3
Mr. Vitthal G. Salgare, Advocate for respondent No. 2
Mrs. D.S. Jape, AGP for State

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CORAM : MANJUSHA DESHPANDE, J.

RESERVED ON : 24th JANUARY, 2025
PRONOUNCED ON: 11th FEBRUARY, 2025

JUDGMENT :

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

2. The petitioner is assailing the order dated 18th August, 2018, passed by Presiding Officer, School Tribunal, Latur in Appeal No. 41 of 2013, to the extent of refusal of relief of reinstatement to the post of Shikshan Sevak with continuity of service, back wages and other consequential benefits.

3. The judgment and order of School Tribunal has been challenged on the ground that though the Tribunal while recording finding regarding appointment of Shikshan Sevak has recorded finding holding his appointment to be legal and valid and his otherwise termination was held to be bad in law, the appeal of the petitioner has been dismissed, denying him reinstatement with continuity of service and back wages. Therefore, the question to be decided in the present petition is whether inspite of positive findings recorded by the Tribunal that appointment of the petitioner is valid, legal and by following due procedure of law and termination is bad in law, the relief of reinstatement with continuity of service and back wages could have been denied to the petitioner.

4. It is the contention of the petitioner that though it is held that the appointment of petitioner is made after following prescribed procedure and his termination is without following procedure of law, the relief of reinstatement has been denied to the petitioner. According to the learned advocate for the petitioner the finding of the School Tribunal is contrary to its own observations recorded with regard to the valid appointment as well as termination of the petitioner without following due procedure of law. Once it is held that appointment is lawful and valid and termination is without following due procedure of law, the necessary consequential relief that needs to follow is reinstatement with back wages. Hence, the finding of the Tribunal on the issue of reinstatement needs to be interfered with by this Court.

5. Learned advocate Shri. Barlinge, appearing for the petitioner contends that, it was a specific stand of respondents-management in their written statement filed before the Tribunal that, work of the petitioner was not satisfactory during his tenure in the school. He did not obey the directions of the Management and he committed several illegal activities amounting to misconduct, therefore, the management by

following due procedure of law as contemplated under clause 14(2) of Government Resolution dated 13.10.2000, terminated the services of petitioner.

6. The learned advocate for the petitioner places reliance on the annexure to Government Resolution dated 13.10.2000. Clause 14 to the Annexure of Government Resolution provides the terms and conditions for appointment of Shikshan Sevak. As per clause 14(2), during the tenure of Shikshan Sevak, if it is found that he has committed misconduct, his appointment shall be cancelled by the appointing authority. So far as private educational institutions are concerned, such appointment shall be cancelled with prior permission of Deputy Director of Education.

7. Reliance is placed by the Management on this clause in support of termination of the petitioner. It is contended that the respondents have not obtained permission of Deputy Director, of Education, before terminating the services of the petitioner. In spite of that the Tribunal has not taken into account the absence of permission of Deputy Director of Education. The Tribunal has held that, valid assessment of the work of appellant has been done by the Management, which is proper. According to

the assessment, appellant has committed dereliction of duties.

8. Though, the Management had sought permission of the Education Officer, which was not granted and was kept pending, the Tribunal has observed that the Management can be directed to overcome the technical lacuna of not obtaining prior permission of Deputy Director of Education, by granting salary of one month in lieu of notice, to be paid by Management, this observation is erroneous. It is his contention that when the Management itself has relied on clause 14(2) of the Government Resolution dated 13.10.2000, it could not have dispensed with it, since, it was pre condition required to be fulfilled before terminating the services of a Shikshan Sevak. Unless and until the necessary condition was complied with by the Management, the services of the petitioner could not have been terminated. Hence, the School Tribunal has committed an error by holding that necessary condition of obtaining prior permission of the Deputy Director of Education can be compensated by granting one month salary in lieu of the same.

9. Learned advocate for the petitioner further submits that even as per Section 5(3) of the Maharashtra Employees of Private Schools (Conditions Of Service) Regulation Act, 1977 (for

short 'MEPS Act'), the Management has to assess work and behaviour of an employee, who is undergoing the period of probation and in case his work is found to be unsatisfactory, the Management can terminate his services during the probation by giving one month notice.

10. However, according to learned advocate for the petitioner, Rule 15(6) of Maharashtra Employees of Private Schools (Conditions Of Service) Rules, 1981 (for short 'MEPS Rules') provide that performance of employee appointed on probation shall be objectively assessed by the Head during the period of his probation and a record of such assessment shall be maintained.

11. According to learned advocate for the petitioner, there is no objective assessment of the work of petitioner placed before the Management, which is assessed by Head Master in order to support the action of termination of services of the petitioner resorting to Section 5(3) of the MEPS Act.

12. It is further contented that work and behaviour of an employee is assessed by Head Master during probation and if at all the Management is of the opinion that, his work is not satisfactory, only upon receiving such report, the Management

has the power to terminate the services of the probationer as provided under Section 5(3) of the MEPS Act. In the present case, termination by the Management is not preceded by any such assessment report prepared by Head Master. Therefore, according to learned advocate for the petitioner, termination of the petitioner is illegal. This aspect of the matter has been totally ignored by the Tribunal. It is his contention that the termination of services of the petitioner during his probation is a punitive action of the Management.

13. Learned advocate for the petitioner further submits that without giving any opportunity of hearing to the petitioner or even intimating him about alleged misbehavior, petitioner has been terminated. He submits that even the probationer is required to be given a show cause notice if he is not likely to be continued by the Management. In support of this submission, he places reliance on reported judgment in the case of ***Dipti Prakash Banerjee v. Satvendra Nath Bose National Centre for Basic Sciences, Calcutta and others***, 1999 AIR SCW 605.

14. He further submits that if the Management is alleging misbehavior and misconduct, then in such scenario it amounts to stigma and therefore, show cause notice should have been

preceded by order of termination. In support of his contention he relies on observations in para 36 of the aforesaid judgment, wherein it is observed that;

"36. The above decision is, in our view, clear authority for the proposition that the material which amounts to stigma need not be contained in the order of termination of the probationer but might be contained in any document referred to in the termination order or in its Annexures. Obviously such a document could be asked for or called for by any future employer of the probationer. In such a case, the order of termination would stand vitiated on the ground that no regular inquiry was conducted. We shall presently consider whether, on the facts of the case before us, the documents referred to in the impugned order contain any stigma."

15. Hence, according to him in view of finding recorded by the School Tribunal that the appointment of petitioner is valid and termination is without following due procedure of law, consequential order of reinstatement with back wages should have been granted by the Tribunal. Since, the order of School Tribunal lacks reasoning to support denial of reinstatement with back wages, the order suffers from non application of mind and perversity, hence, it is required to be quashed and set aside.

16. Learned advocate Shri. Vivek Dhage, appearing for the Management submits that, it needs to be appreciated that

the petitioner was on probation and in law a 'probationer' does not have any right to seek continuation. The learned Advocate has drawn my attention to the order of termination in support of contention that, order of termination dated 07.09.2013 does not in any way allege petitioner of any misconduct or any stigmatic remark. He further relies on the communication dated 24.05.2014, wherein referring to the misconduct of petitioner the permission of the Deputy Director of Education has been sought for terminating services of the petitioner. According to the learned advocate Shri. Dhage, petitioner has refused to comply with the order of School Tribunal passed in favour of Shri. Vyankat Babarao Patil, Assistant Teacher, by refusing him to resume his duties, in accordance with the communication issued by Education Officer, Zilla Parishad, Nanded. He has committed various misconducts by not following the orders issued by the members of Management. He also has not responded to the memos issued by the Management calling upon him to give explanation either orally or writing. Hence, referring to the misconduct and misbehavior of petitioner, permission was sought from the Deputy Director of Education, however, in spite of reminders sent by Management, no permission was granted by the Deputy Director of Education for a long period. Further

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reminder was sent to Education Officer on 13.08.2013, but they have not received positive reply, therefore, Management was constrained to pass order of termination.

17. According to the learned advocate for respondents, the rules and provisions of the MEPS Act in this regard are very clear, more particularly, Section 5(3) of MEPS Act, empowers the Management to do away with the service of employee after giving him one month notice, if his behavior and work is not satisfactory during the period of probation.

18. Learned advocate for the Management, further submits that various memos which were served on the petitioner to which he has not responded, lends support to the decision of termination taken by the Management, due to unsatisfactory work as well as behavior of the petitioner. It is the specific contention of the Management before the School Tribunal, that petitioner was absent from duty without sanctioned leave from the authorities as per Rule 16 of MEPS Rules. Since the petitioner was not following the orders of the Management as well as Education Officer and the School Tribunal, it was a grave misconduct on the part of the petitioner. The work of the petitioner was not satisfactory during his service. On

23.11.2011, when the President of the Trust had visited the school, the National Anthem was in progress, however the petitioner was absent, therefore, he was issued show cause notice calling explanation of the petitioner. However, the petitioner did not submit any reply to the said notice. Even, thereafter, a notice was issued on 05.12.2011, to which the petitioner has not responded. The petitioner was absent from his duty without prior permission. Hence, there are various instances of misconduct by petitioner, for which he was issued show cause notice, which have not been responded.

19. It is the contention of respondents that the President and Secretary of the Trust directed the Head Master to prepare and submit a confidential report of petitioner as per Section 14 and 15 of MEPS Act. Copy of communication dated 30.09.2012 is placed on record in support of said contention. In spite of communication issued to the Head Master, the Head Master has failed to submit the confidential report of the petitioner. A communication was also addressed to the Education Officer, Secondary, Zilla Parishad, Nanded, wherein it was brought to the notice of Education Officer that in spite of direction to the Head Master to issue notice of termination to the petitioner for his

unsatisfactory work, the Head Master has not acted accordingly. It is further contended by the learned advocate for the respondents that as contemplated under Clause 14(2) of the Government Resolution dated 13.10.2000, the Management had submitted a proposal of the petitioner to the Deputy Director of Education seeking prior permission for terminating services of petitioner as Shikshan Sevak. The proposal was accompanied with the supporting documents about unsatisfactory work and behaviour of the petitioner. Since, they did not receive any positive response from the Deputy Director of Education, they have also sent reminders to the office of Deputy Director of Education, Latur, When such reminders were sent, Deputy Director of Education has communicated to the Education Officer, Nanded that respondents have submitted a proposal and has further directed him to take appropriate steps. Since a copy was forwarded to the respondents, respondents again requested the Education Officer to do the needful and sought permission for terminating the services of the petitioner. Unfortunately, there was no response either from the Deputy Director of Education or Education Officer, Secondary, Zilla Parishad, Nanded, hence the Management was constrained to pass resolution in the meeting of Managing Committee, terminating the services of the

petitioner. The petitioner was terminated by the Management from 10.09.2013, by following due procedure of law. It is the contention of the respondents that on the background of misconduct and unsatisfactory behavior of the petitioner, the School Tribunal has passed order refusing reinstatement and back wages to the petitioner, which is justified.

20. The learned advocate for the respondents relied on the decision of Full Bench of this Court in the case of ***Gramin Yuvak Vikas Shikshan Mandal, Kinhi Naik, Buldhana and another vs. Shivnarayan Datta Raut and another***, 2023(4) Mh.L.J. 323, wherein the reference was made to the Full Bench by Single Judge on points which are reproduced herein below;

"(i) Whether only sub-rule (6) of Rule 15 of the MEPS Rules applies to an employee appointed on probation when the Management seeks to take action under Section 5(3) of the MEPS Act or entire Rule 15 from sub-rules (1) to (6) of the MEPS Rules apply to such an employee appointed on probation?"

(ii) Whether judgment of the Hon'ble Supreme Court in the case of Progressive Education Society and another v. Rajendra and another (supra) lays down that entire Rule 15 of the MEPS Rules applies to an employee appointed on probation, particularly in the context of power available to the Management under Section 5(3) of the MEPS Act?"

(iii) Whether failure to adhere to requirements of

sub-rules (3) and (5) of Rule 15 of the MEPS Rules would ipso facto vitiate an action taken by the Management under Section 5(3) of the MEPS Act, despite the fact that the Management satisfies requirement of sub-rule (6) of Rule 15 of the MEPS Rules by ensuring that performance of an employee appointed on probation has been objectively assessed by the Head and record of such an assessment has been maintained?

(iv) Whether non-compliance of sub-rule (5) of Rule 15 of the MEPS Rules would vitiate an order of termination of service simpliciter issued by the Management under Section 5(3) of the MEPS Act when the said sub-rule deems that "work of an employee is satisfactory", while Section 5(3) of the MEPS Act gives power to the Management to terminate the service of an employee appointed on probation not only for "unsatisfactory work", but also for "unsatisfactory behaviour"?

(v) Whether it would be sufficient compliance on the part of the Management while acting under Section 5(3) of the MEPS Act, if it complies with only sub-rule (6) of Rule 15 of the MEPS Rules by ensuring that the performance of an employee appointed on probation is objectively assessed and the Head maintains record of such assessment, and principles of natural justice stand satisfied by issuing notices/warnings for unsatisfactory work to such an employee appointed on probation, considering the limited rights available to such an employee as per law laid down from the case of Parshotam Lal Dhingra v. Union of India (supra) in the year 1958 and onwards?"

21. It is observed by the Full Bench that, whole

controversy as to whether while terminating the services of an employee appointed on probation by the Management by taking recourse to Section 5(3) of the MEPS Act on the ground of unsatisfactory work or behaviour, only sub-rule (5) of Rule 15 of MEPS Rules applies or sub-rules (1) to (6) of Rule 15 of the MEPS Rules apply to such an employee. Section 5(3) of MEPS Act and Rule 15(6) of MEPS Rules, are reproduced herein below, which read thus:

Section 5(3) of MEPS Act

"5. Certain obligations of Management of private schools:

(1) -----

(3) If in the opinion of the Management, the work or behaviour of any probationer during the period of his probation, is not satisfactory, the Management may terminate his services at any time during the said period after giving him one month's notice or salary or honorarium of one month in lieu of notice."

Rule 15(6) of MEPS Rules

"R.15. Writing confidential reports etc.:

(1)-----

(2)-----

(6) Performance of an employee appointed on probation shall be objectively assessed by the Head during the period of his probation and a record of such assessment shall be maintained."

22. Upon considering the provisions of MEPS Act and

MEPS Rules, Full Bench of this Court has come to a conclusion that a probationer has no right to his post and the termination of service of probationer does not amount to dismissal or removal by way of punishment. The probationer is on test and if the services are found not to be satisfactory, the employer has every right to terminate his services. The purpose of any probation is to ensure that before the employee attains the status of confirmed employee, he should satisfactorily perform his duties and functions. The entire objective of probation is to provide the employer an opportunity to evaluate the probationer's performance and test his suitability for a particular post.

23. The probationers have no indefeasible right to continue in employment until confirmed, and they can be relieved if found unsuitable. The probationers in case of termination have protection under the principles of natural justice if removal is stigmatic and if it prejudices his future prospects or casts aspersions on his character or violates constitutional rights. It has been further observed that, since it is held that probationer has no right to his post and his termination of service does not amount to a dismissal or removal by way of punishment, there is no requirement to initiate disciplinary

proceedings or departmental enquiry to terminate the service of probationer on the ground of unsatisfactory behaviour or performance. The objective assessment of performance, during the period of his probation by maintaining the record of such assessment under Rule 15(6) of the MEPS Rules, is sufficient. Hence, there is no requirement to write and maintain confidential report of a probationer.

24. It is further observed that, in case of an employee appointed on probation, if the order of termination is innocuous and which does not cast any stigma, it is not necessary to communicate adverse remarks or to facilitate such an employee to make representation as provided under sub-rule (4) of Rule 15 of MEPS Rules.

25. Question No. (v) framed for determination by Reference Court is relevant for present case. Question No. (v) framed by Single Judge and answer to it by the Reference Court is reproduced herein below:

Q.(v) Whether it would be sufficient compliance on the part of the Management while acting under Section 5(3) of the MEPS Act, if it complies with only sub-rule (6) of Rule 15 of the MEPS Rules by ensuring that the performance of an employee appointed on probation is objectively assessed and the Head maintains record of such assessment, and

principles of natural justice stand satisfied by issuing notices/warnings for unsatisfactory work to such an employee appointed on probation, considering the limited rights available to such an employee as per law laid down from the case of Parshotam Lal Dhingra v. Union of India (supra) in the year 1958 and onwards?

Answer to Question No.(v): *As per the law laid down in the case of Parshotam Lal Dhingra (supra) that where a person appointed on probation, the termination of his service during or at the end of the period of probation will not ordinarily or by itself be a punishment because such employee has no right to continue to hold such post, the termination will not operate as forfeiture of right to hold such post. Therefore, it would be sufficient compliance on the part of the Management while acting under Section 5(3) of the MEPS Act, if it complies with only sub-rule (6) of Rule 15 of the MEPS Rules. Further, as the principles of natural justice do not apply to the probationer unless the termination is stigmatic, issuance of notice/ warnings for unsatisfactory work to such an employee appointed on probation is not contemplated under the MEPS Act or MEPS Rules.*

26. Learned advocate for the respondents submits that since the petitioner was on probation, he did not have indefeasible right to the post. The Management had every right to evaluate his performance in order to test suitability of the petitioner. During evaluation of work and behaviour of the petitioner, he was not found to be suitable and since his order of

termination is simplicitor termination without causing any stigma, it was not necessary to communicate any adverse remark to facilitate the employee to make representation, as urged by the learned advocate for the petitioner. It is only in case of stigmatic removal by the Management which prejudices the future prospects of an employee, while seeking employment in other establishments, it is necessary to communicate adverse remarks since it casts aspersions on his character and violates his constitutional right.

27. He further places reliance on para 110 of the judgment of Full Bench, where there is an observation while interpreting Rule 15(6) of MEPS Rules, which observes that, when termination does not amount to dismissal or removal by way punishment, maintaining of record of such assessment under Rule 15(6) MEPS Rules is sufficient. There is no requirement of writing and maintaining any confidential report of the probationer.

28. Hence, relying on above observations of the Full Bench, according to the learned advocate for the respondents, the position of law with regard to removal of probationer before completion of probation is now settled by the decision of Full

Bench. It is now settled that probationer does not have right on the post to continue and termination does not amount to dismissal or removal by way of punishment and employer has every right to evaluate the performance of probationer and his suitability during the period of probation, in if he is not found suitable, he can be removed from services. So far as MEPS Act is concerned, it is now clear that there is no requirement of giving any notice or to communicate adverse remark to a probationer in order to facilitate the employee to make representation against adverse remarks.

29. According to him, work and behaviour of petitioner has been assessed by Management, which is reflected from the various memos which are placed on record, which are communicated to the petitioner to which he did not respond and on the basis of evaluation of performance by Management, services of the petitioner are terminated, which is very much valid, legal and proper in view of decision of Full Bench.

30. After hearing the respective parties, the issues that arise for consideration before this Court are as under:

- (i) Whether appropriate permission of Deputy Director of Education was obtained before terminating the services of

the petitioner?

- (ii) Whether there is valid assessment of behaviour or work of petitioner by the Head Master of the School as contemplated under Rule 15(6) of MEPS Rules?
- (iii) Whether the order passed by the Management directing termination of services of petitioner in exercise of power under Section 5(3) of MEPS Act was preceded by any report of the Head Master, who is authorized to assess the work of the probationer?
- (iv) Whether denial of relief of reinstatement is appropriate?

31. So far objection of the petitioner regarding absence of permission from the Deputy Director of Education before terminating services of the petitioner as contemplated under Clause 14(2) of Government Resolution dated 13.10.2000 is concerned, the Management has demonstrated that the Management in fact sought permission from the Deputy Director of Education by communication dated 24.05.2013. Along with the communication seeking permission to terminate the services of the petitioner, a reference was given to the various misconducts of petitioner, which was accompanied with the documents which were referred in the communication. Though the communication was received by the Deputy Director of Education, there was no response to the said communication. Therefore, the Management has again sent reminder on

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24.06.2013, referring to the earlier communication. It was also informed in the said communication that considering the urgency in the matter, early response is solicited. In spite of said communication, there was no response from the Deputy Director of Education. Though, there was no response from the Deputy Director of Education to the Management, the Deputy Director of Education addressed a communication to the Education Officer (Secondary) on 09.07.2013 informing him about permission sought by the Management and Education Officer (Secondary) was directed to take appropriate action as permissible under law and report back to the Deputy Director of Education. Copy of that communication was forwarded to the Management. In view of communication, which was addressed to the Education Officer (Secondary), the Management, has again addressed a communication to the Education Officer (Secondary) reminding him about the direction given by the Deputy Director of Education, to take appropriate action and requesting him to take appropriate steps. Since, the Management did not receive any response either from Deputy Director of Education or Education Officer (Secondary), the Management was constrained to pass order terminating the services of the petitioner.

32. Clause 2 of the annexure to Government Resolution dated 13.10.2000, which is relied upon by the petitioner as well as by the Management provides that the services of the probationer are capable of being terminated with prior permission of Deputy Director of Education. The clause itself is clear and unambiguous, it is not a mandatory condition.

33. There exists a substantive enabling provision in the MEPS Act itself, which confers power on the Management under Section 5(3) to terminate services of probationer if his work or behaviour is found to be unsatisfactory. Further in the sub section (3) of Section 5 of the MEPS Act, itself a mechanism is provided, on failure to give one month's notice, salary or honorarium of one month in lieu of notice can be given. In the present case, School Tribunal while observing that no prior permission of the Deputy Director of Education has been taken has rightly granted one month's salary/honorarium in lieu of notice.

34. Section 5(3) provides that if work or behaviour of any probationer during the period of probation is found to be unsatisfactory, the services of the probationer can be terminated, meaning thereby if the probationer fails to satisfy

any of the conditions, the Management is empowered to terminate the services. In the present case, there is failure on account of work as well as behaviour by the petitioner to satisfy the Management during his probation and it was also conveyed by the Management to the petitioner. Though, the petitioner was time and again served with memos, he has not responded to it. The petitioner has on various occasions remained absent from his duty without permission, as can be seen from the documents placed on record.

35. It also needs to be appreciated that the President and Secretary of the Management called upon the Head master to prepare and submit confidential report as per Section 14 and 15 of MEPS Act, however, the Head master has not responded to the communication of the Management and has avoided to make available the assessment report of the petitioner. The conduct of the Head Master was also communicated to the Education Officer by communication dated 04.10.2012 by the Management bringing it to the notice of Education Officer (Secondary) that the Head Master is avoiding to provide confidential/assessment report of the petitioner. He was also directed by the Management to issue notice to the petitioner about termination of his services,

however, the Head Master has also failed to comply with the said direction. Therefore, in view of non co-operation by the Deputy Director of Education, Education Officer (Secondary) and the Head Master, the Management was constrained to terminate the services of the petitioner. The Management was having sufficient material to assess the work and behaviour of the petitioner. Though, the Deputy Director of Education has failed to accord permission and Head Master has also refused to co-operate by his conduct, the Management having already communicated to the petitioner about his misconduct through memos and communication calling upon him to explain his behaviour there was material available with the Management to assess work and behaviour of petitioner in order to arrive at a conclusion about his unsatisfactory work. Hence, there is no error committed by the Presiding Officer, School Tribunal while observing that the petitioner does not deserve to be reinstated in service since he is found to be unfit for grant of reinstatement and continuity of service.

36. In the decision of Full Bench in Gramin Yuvak Vikas Shikshan Mandal (supra), while interpreting Rule 15(6) it has been observed that, the probationer has no right to his post and

terminating services of probationer does not amount to dismissal or removal by way of punishment. Considering that the termination of the petitioner in the present case is not stigmatic, there was no impediment for his prospects for future employment. It is also held that, it is not necessary to maintain confidential report of a probationer. Even the objective assessment of performance of probationer during the period of probation by maintaining the record of assessment under Rule 15(6) is sufficient. The rules of natural justice are also not required to be followed while terminating the services of an employee appointed on probation, if the termination is innocuous and it does not cast any stigma.

The present case stands fully covered by the above observations made by Full Bench in Gramin Yuvak Vikas Shikshan Mandal (supra).

37. Though, it is strenuously argued by the petitioner that material which is required to be relied upon by the Management is the material which is required to be maintained by Head Master under Rule 15(6) of MEPS Rules, therefore, in absence of objective assessment of the work by Head Master during the period of his probation, there cannot be termination

under Section 5(3) of the MEPS Act. However, in the peculiar facts of the present case, wherein the Deputy Director of Education, Education Officer (Secondary) as well as Head Master have been time and again called upon to take appropriate steps for according sanction as well as providing assessment report of the petitioner, all the respective authorities have not responded. Hence in the peculiar facts of this case, the Management was constrained to pass an order terminating the services of the petitioner, on the basis of material available with the Management, which was sufficient to assess his work and behaviour. Therefore, in my opinion the order passed by the School Tribunal does not suffer from any error or non application of mind and case of the petitioner stands covered by the decision of Full Bench in Gramin Yuvak Vikas Shikshan Mandal (supra).

38. Hence, the order passed by the School Tribunal does not deserve any interference and writ petition is accordingly dismissed. Rule stands discharged.

(MANJUSHA DESHPANDE, J.)