

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2308 OF 2024

1. Shri Shivaji Shikashan Prasarak
Mandal, Saswad Regd. No.
MAHA/4067/1988/PTR F/5114
(Pune) through it's the President/
Joint Secretary, Market Yard Campus
Saswad, Taluka Purandar,
Dist: Pune 411 043.
 2. The Head Master,
Vathar Madhyamik Vidyalaya
Vathar Budruk, Shedgewadi
Taluka: Khandala,
Dist: Sathara, Pin-415 528.Petitioners
- Vs.
1. Shri Avinash Bhagwan Bhosale
Age: 39 years, Occupation: Service,
Residing at: At. Post: Shivajinagar,
Taluka: Khandala, Dist: Satara.
 2. The Education Officer,
Satara Zilha Parishad Satara
Extension Building, Ground Floor,
Satara-Koregaon Road, Sadar Bazhar,
Taluka: Satara, Dist: Satara
 3. The Deputy Director of Education,
Kolhapur
 4. Smt. Rani Shashikant Bhujbal,
Age 35 years, Occupation: Service,
Vathar Madhyamik Vidyalay
Vathar Budruk, Shedgewadi,
Taluka Khandala, Dist: Satara.Respondents.

Mr. Vaibhav Ramchandra Gaikwad, for the Petitioners.
Ms. Manjiri Parasnis (Through VC), for the Respondent No.1.
Mr. Sanjay D. Rayrikar, AGP, for Respondent Nos.2 & 3-State.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 18th NOVEMBER 2025

JUDGMENT :-

1. The present Writ Petition takes exception to Order dated 8th April 2022 passed by learned Presiding Officer, School Tribunal, Kolhapur (For short, '**Tribunal**') in Appeal No.16 of 2020, thereby directing Petitioners-Management to reinstate Respondent No.1 on original post with continuity of service and consequential benefits and pay 100% back wages from date of termination till reinstatement.

2. Respondent No.1 was appointed as 'Assistant Teacher' with Petitioner No.2-school. He holds B.A. B.PEd. Qualification. He was on probation from 14th June 2004. His services have been approved by Education Officer on 31st March 2012. Respondent No.2-school started receiving 20% grant-in-aid from 2013-14. On 31st January 2019, Petitioners-Management informed to Education Officer that appointment of Respondent No.1 has been cancelled, since he is appointed against reserved post. Respondent No.1 filed appeal

under Section 9 of The Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977 (For short, '**MEPS Act**') assailing termination order dated 29th March 2019. Petitioners were duly served with notice in appeal, however, they failed to cause their appearance. In result, Appeal proceeded *ex parte*. The Tribunal, after considering evidence on record, allowed appeal filed by Respondent No.1 and directed his reinstatement in service alongwith backwages and consequential benefits.

3. Mr. Vaibhav Gaikwad, learned Advocate appearing for Petitioners vehemently submits that *ex parte* order has been passed against Petitioners. Although, Petitioners were served with notice of appeal, due to prevalent Covid situation, they could not attend proceeding. The Tribunal has proceeded with appeal and passed impugned order. Mr. Gaikwad would invite attention of this Court to Government Resolution dated 19th September 2016 issued by School Education and Sports Department to contend that as per government directives, appointment of open candidate against reserved post is invalid and such appointment is required to be cancelled. He would, therefore, urge that Tribunal has passed impugned order ignoring

mandate falling from government policy. He would further urge to quash and set aside impugned order and remit matter back to Tribunal thereby granting opportunity to Petitioners to put up defense. Mr. Gaikwad, in support of his submissions, relied upon observations of this Court in case of ***Ashish Namdeo Sonkamble v. Sate of Maharashtra & Anr.***¹ and Standard Operating Procedure issued by Registrar General of Bombay High Court for procedure to be adopted during Covid period.

4. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that Respondent No.1 was appointed on 1st June 2004 against clear vacant post. He joined services on 14th June 2004. His services have been approved by Education Officer on 31st March 2012, whereas vide order dated 29th March 2019, his services were terminated. The termination order depicts two reasons; firstly, post is abolished in 2013-14 due to fall in number of students and secondly, as per government directives appointment of unreserved person against post earmarked for reserved category is liable to be cancelled.

1 Writ Petition No.1215 of 2024 dtd. 12th February 2024.

5. The Tribunal while dealing with aforesaid contentions gave reference to Rules 26 and 27 of MEPS Rules, 1981 and observed that if post of Respondent No.1-employee is abolished due to reduction of strength of students, procedure contemplated under Rules 26 and 27 ought to have been followed, which contemplates for obtaining prior approval from Education Officer, giving three months notice to teacher proposed to be retrenched. Further, Rule 27 prescribes that service of junior most teacher in category of trained graduate shall be terminated. No such procedure followed by Petitioners-Management.

6. In present case, at least from appointment order or material tendered before this Court, there is nothing to show that Respondent No.1 was appointed against vacancy for reserved category candidate. The services of Respondent No.1 were approved in 2012. His appointment was proposed on open category. Therefore, second reason given in impugned order is also fallacious. The record indicates that after school started receiving grant-in-aid, teachers who discharged their duties from 2004 onward have been terminated without following due process of law, so as to make space for fresh

appointments. This Court do not find any substance in contention of Petitioner that services of Respondent No.1 were terminated for any legal or valid reason by following due process of law.

7. The second contention of Petitioners that they were not given opportunity and suffered *ex parte* order during pandemic period is also fallacious. It can be observed that appeal was filed along with application for delay condonation before Tribunal. Petitioners' Advocate represented them. The Tribunal condoned delay and registered appeal. Thereafter, they were served with notice of appeal, however, failed to participate in proceeding.

8. When this Court called upon Petitioners to place on record document in support of reasons for termination, only reliance is placed on directives of Government in communication of 2017 issued in pursuance to Government Resolution dated 19th September 2015, which states that no appointment be made in contravention of reservation policy. However, in present case document on record like appointment order and approval granted in favour of Respondent No.1 speaks that in the year 2004, appointment of Respondent No.1 was made against unreserved post and his appointment was approved

in year 2012 by Education officer without any demur. It suggests that false reasons were recorded in termination order. Apparently, termination was effected with ulterior motive to create vacancy for fresh recruitment against posts, which are eligible for grant-in-aid, thereby frustrating rights of eligible teachers, who are already on roll.

9. In result, Writ Petition stand rejected.

(S. G. CHAPALGAONKAR, J.)

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signed by
RAJU
DATTATRAYA
GAIKWAD
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