

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13063 OF 2024

1. The President, Gramvikas
Mandal, Nirgude (K), Tal.Peth
District-Nashik

2. The Secretary, Gramvikas Mandal
Nirgude (K), Tal.Peth, District-Nashik

....*Petitioners*

: *Versus* :

1. Shri. Prakash Vikram Bawa
2. The Project Officer,
Integrated Tribal Development Project,
3. The Additional Commissioner,
Tribal Development, Nashik Division

....*Respondents*

Ms. Kumud Bhatia, *for the Petitioners.*

Mr. N.V. Bandiwadekar, Senior Advocate with Mr. Rajendra B. Khaire
i/by. Ms. Ashwini N. Bandiwadekar, *for Respondent No.1.*

Ms. Dhruti Kapadia, *AGP for Respondent Nos.2 and 3-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 2 January 2025.

ORAL ORDER :

1) **Rule.** Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, the petition is taken up for final disposal.

2) By this petition, the Petitioner-Management challenges the judgment and order dated 18 July 2024 passed by the Presiding Officer, School Tribunal, Nashik by which the Tribunal has allowed the Appeal filed by the Respondent-employee and has set aside the order dated 27 June 2016 terminating him from services. The Tribunal has directed the Petitioner-Management to pay full backwages to the Respondent-employee from the date of his termination i.e. 1 July 2016 till the date of his superannuation i.e. 31 May 2023.

3) I have heard Ms. Bhatia, the learned counsel appearing for the Petitioner-Management, Mr. Bandiwadkar, the learned senior advocate appearing for Respondent no.1-employee and Ms. Kapadia, the learned AGP appearing for Respondent Nos.2 and 3.

4) After having heard the submissions canvassed by the learned counsel appearing for the parties, it appears that Respondent no.1-employee was in service of the Petitioner-Management since the year 1990. He came to be promoted on the post of Headmaster in the year 2006. On 2 November 2015, a show cause notice was issued to him in respect of the 15 allegations levelled against him. The Respondent-employee denied the allegations in the show cause notice and the Management decided to constitute Enquiry Committee against him and served chargesheet dated 14 January 2016. In the chargesheet, following allegations were levelled against Respondent No.1-employee :

गैरवर्तन -

१. संस्था चालकांचा (कार्यकारी मंडळाचा) अपमान करणे, त्यांचे आदेत न पाळणे, उद्धट वर्तन करणे.
२. मुख्यालयी न रहाणे.
३. शाळेत वेळेत न येणे, वेळेअगोदर शालेय आवार सोडून विनापरवानगी बाहेर जाणे.
४. हेतुपुरस्कर पगार बीले उशीरा पाठविणे.

५. विद्यार्थ्यांकडून बेकायदेशीर फी गोळा करणे, फी संदर्भात कोणतेही हिशोब न ठेवणे.
६. शिक्षक-शिक्षकेतर कर्मचारी, वसतीगृह कर्मचारी यांच्याशी असभ्यपणे वागणे, अपशब्द वापरणे इ.

नैतिक अधःपतन -

१. संस्थाचालकांना खरी माहिती न देणे, माहिती लपवून ठेवणे, खोटे बोलणे, आर्थिक अपहार करणे.
२. विद्यार्थ्यांच्या समोर कोणताही आदर्श स्वतः न घालून देणे.

कर्तव्यात बुद्धिपुरुस्कर हयगय करणे

१. शालेय वेळापत्रक चुकीचे तयार करणे.
२. शिक्षकांचा कार्यभार चुकीचा देणे.
३. शालेय प्रगतीकडे दुर्लक्ष करणे.
४. विद्यार्थ्यांच्या शैक्षणिक प्रगतीकडे दुर्लक्ष करणे.
५. मुख्याध्यापक पदासाठीची कर्तव्य व जबाबदाऱ्या पार न पाडणे
६. विषय वाटणी, कामाची विभागणी या बाबत नियमाप्रमाणे कार्यवाही न करणे.
७. विद्यार्थ्यांच्या सर्वांगीण विकासासाठी प्रयत्न न करणे.

८. स्पर्धा परिक्षांची तयारी करून न घेणे.

९. विद्यालयाच्या वसतीगृहातील विद्यार्थ्यांसंदर्भात असलेली आपली जबाबदारी आपण सक्षमपणे पार न पाडणे.

अक्षमता -

१. स्वतःच्या विषयात विद्यार्थ्यांना सक्षम मार्गदर्शन न करणे.
२. शिक्षकांच्या शैक्षणिक कामावर सक्षमपणे नियंत्रण न ठेवणे.
३. शिक्षकेतर कर्मचाऱ्यांच्या कामावर नियंत्रण न ठेवणे.
४. कर्मचाऱ्यांना त्यांच्या कायदेशीर हक्कापासून वंचित ठेवणे.
५. शाळेच्या सर्वांगीण प्रगतीसाठी प्रयत्नपूर्वक नियोजन व प्रयत्न न करणे.
६. आश्रमशाळासंहिता प्रकरण ५ मधील ५.१ मधील १ ते ४ अंतर्गत दिलेली कर्तव्ये सक्षमपणे न बजावणे.
७. एम.ई.पी.एस. (१९८१) सेवेच्या शर्तीतील मुख्याध्यापकांच्या जबाबदाऱ्या व कर्तव्ये पार न पाडणे.

5) Perusal of the charges levelled against Respondent No.1-employee would clearly indicate complete vagueness in the same. The chargesheet did not provide any particulars with regard to the dates, time, amounts etc. in relation to the vague allegations levelled therein. To illustrate, in respect of the first allegation of insulting the Management officials, non-following their instructions and rude

behaviour, no particulars are given as to when the Petitioner insulted any particular office bearer of the Management. Similarly, there are no particulars about the exact orders issued by the Management, which were allegedly not obeyed by the Respondent-employee. In my view, the charges levelled against the Respondent-employee were absolutely vague and on that ground alone, the entire enquiry proceedings are clearly vitiated.

6) Additionally, the Tribunal has taken into consideration breach of provisions of Rule 27(1) of the Maharashtra Employees of Private Schools Rules, 1981, as well as several other violations of principles of natural justice during conduct of the enquiry.

7) Respondent No.1 worked in the School of the Petitioner-Management for a considerable period of time and was left with only six years of service before his retirement. If indeed he had committed any grave misconduct, the Petitioner-Management ought to have given particulars of the misconduct committed by him in the chargesheet and ought to have led evidence in support of such charges. If the charges are vague, no amount of evidence produced during the course of enquiry would justify the action of termination based on such vague charges.

8) Respondent No.1 has attained the age of superannuation on 31 May 2023. Therefore, the limited relief granted by the Tribunal in favour of Respondent No.1 is payment of full backwages from the date of termination i.e. 1 July 2016 till the date of attaining the age of superannuation i.e. 31 May 2023. What is more important is the fact that the order of termination of service would have resulted in forfeiture of all retiral benefits. Therefore, before taking the extreme step of terminating the services of Respondent No.1-employee, the

Petitioner-Management ought to have been careful enough to issue a proper chargesheet containing all particulars of charges levelled against him and thereafter prove the said charges by leading evidence and by scrupulously following the provisions of the Rules. In the present case, not only the charges are vague, there are also infraction of principles of natural justice.

9) Ms. Bhatia, would invite my attention to letter dated 24 March 2015 issued by Respondent No.1-employee in which he agreed not to take any deliberate adverse action against any teaching or non-teaching staff. According to Ms. Bhatia, the letter dated 24 March 2015 constitutes an admission on the part of Respondent No.1 that he was unnecessarily harassing the teaching and non-teaching staff and that therefore his termination is clearly warranted. In my view, if indeed Respondent No.1 had taken any undue or arbitrary action against any teaching or non-teaching staff or harassed them, proper charge containing all particulars ought to have been framed against him and after leading evidence in support that charge, appropriate punishment could be imposed upon him. The order of termination is thus clearly unsustainable and rightly set aside by the Tribunal.

10) Turning to the issue of backwages, the letter dated 24 March 2015 submitted by Respondent No.1 contains an implied admission that some of his actions towards teaching and non-teaching staff were not appropriate. There appears to be series of complaints made against the conduct of Respondent No.1 by several teaching and non-teaching staff. The letter dated 24 March 2015 submitted by Respondent No.1, far from denying those allegations, contains an implied admission that some of his actions towards teaching and non-teaching staff were indeed inappropriate. In that view of the matter,

direction of the Tribunal for award of 100% backwages to Respondent No.1 is clearly unwarranted. In my view therefore, ends of justice would meet if the direction of the Tribunal for 100% backwages is modified by directing only 50% backwages during intervening period from 1 July 2016 to 31 May 2023.

11) I accordingly proceed to pass the following order :

(i) Judgment and order dated 18 July 2024 passed by the Presiding Officer, School Tribunal, Nashik is modified to the limited extent of payment of full backwages during the intervening period.

(ii) Petitioner-Management shall pay to Respondent No.1 50% backwages from 1 July 2016 to 31 May 2023 within a period of 3 months from today. Rest of the order passed by the Tribunal shall remain undisturbed.

(iii) Time to submit the pension papers of Respondent No.1 in terms of Clause-(5) of the order of the Tribunal shall stand extended by a period of 4 weeks from today.

12) With the above directions, the Writ Petition is **partly allowed**. Rule is made partly absolute.

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[SANDEEP V. MARNE, J.]