

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13393 OF 2024**

Mahila Mandal Kulgaon and Anr.

...Petitioners

V/s.

Mrs. Kavita Ravindranath Khairnar
and Ors.

...Respondents

Mr. N.V. Bandiwadekar, *Senior Advocate with Mr. Vinayak Kumbar, Mr. Rajendra B. Khaire and Mr. Aniket S. Phapale i/b. Ms. Ashwini N. Bandiwadekar for the Petitioners.*

Mr. A.S. Khandeparkar, *Senior Advocate with Mr. Saurabh Mittal i/b. M/s. Khandeparkar and Associates for Respondent No.1.*

CORAM : SANDEEP V. MARNE, J.

Dated : 4 March 2025.

P.C. :

1) Petition challenges order dated 28 August 2024 passed by the Presiding Officer, School Tribunal, Mumbai allowing Appeal No.45 of 2023 filed by Respondent No.1 and setting aside the entire enquiry as well as termination order and directing reinstatement with full backwages.

2) I have heard Mr. Bandiwadekar, the learned senior advocate appearing for the Petitioner-management and Mr.

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Khandeparkar, the learned senior advocate appearing for Respondent No.1-teacher.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties and after going through the impugned order passed by the learned Presiding Officer of the School Tribunal, it is seen that out of total 23 pages through which the judgment of the Tribunal runs, about 9 pages are devoted by in merely reproducing the list of documents filed by both the parties. Reasoning in the judgment begins at page No.20 and ends at page 21. Thus, out of the 23 pages devoted for the judgment, the reasons are to be found only in two pages.

4) Coming to the merits of the case, it is seen that the School Tribunal has proceeded to set aside enquiry on three grounds viz.,(i) non-completion of enquiry within 120 days, (ii) failure to seek prior permission from Deputy Director of Education for initiation of enquiry and (iii) failure to take Respondent back in service despite the alleged orders passed by the Deputy Director of Education. In my view, all the three reasons recorded by the learned Presiding Officer, School Tribunal are clearly unsustainable. It is well settled law that failure to complete enquiry within 120 days would, at the highest, result in automatic revocation of suspension and would not *ipso facto* render the enquiry void. There is no provision, under which the management is required to obtain prior permission of Deputy Director of Education for initiation of enquiry. Thirdly, the alleged failure on the part of the

management to obey the orders of the Deputy Director or Director of Education has nothing to do with the misconduct proved against the Respondent in the domestic enquiry. In my view, the learned Presiding Officer, School Tribunal has completely misdirected herself by deciding the appeal filed by Respondent No.1 on irrelevant considerations instead of examining the evidence on record and instead of examining the manner in which the enquiry is conducted. The order passed by the School Tribunal is unsustainable and liable to be set aside.

5) Although the order passed by the School Tribunal is being set aside, it is observed that the Presiding Officer has not considered merits of the case by evaluating evidence on record and by considering the manner in which enquiry has been conducted. In order to enable the Tribunal to do so, Appeal is required to be remanded for being decided afresh.

6) Accordingly, I proceed to pass the following order:-

- (i) Writ Petition is partly allowed.
- (ii) Order dated 28 August 2024 passed by the Presiding Officer, School Tribunal in Appeal No.45 of 2023 is set aside and the Appeal is restored on the file of the School Tribunal.
- (iii) School Tribunal shall proceed to decide the Appeal afresh on its own merits. The School

Tribunal shall make an endeavour to decide the Appeal in an expeditious manner, preferably within a period of 8 months.

- (iv) Parties shall appear before the School Tribunal on 17 March 2025 by producing before it copy of this Order and seek further directions for fixation of date(s) for hearing of the Appeal.

7) With the above directions, the Writ Petition is disposed of. All contentions of the parties on merits, except on the three points discussed above, are expressly kept open.

[SANDEEP V. MARNE, J.]