

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION NO.147 OF 2024
IN
WRIT PETITION NO.13442 OF 2022
WITH
INTERIM APPLICATION (STAMP) NO.35259 OF 2024
IN
REVIEW PETITION NO.147 OF 2024**

Gorakshnath Somaji Dandwate
V/S

....Petitioner

Swami Vivekanand Shikshan
Prasarak Mandal & Ors.

....Respondents

Dr. Rajendra Godbole with Mr. Manish Kelkar *for the
Petitioner/Applicant.*

Mr. Siddharth Ronghe i/b Ms. Neha Wadekar *for Respondent
Nos.1 to 3.*

Mr. J.P. Patil, AGP *for Respondent No.7/State.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 04 FEBRUARY 2025.**

P.C.:

1. The Petition seeks review of judgment and order dated 20 September 2024.

2. I have heard Mr. Godbole, the learned counsel appearing for the Review Petitioner, Mr. Ronghe, the learned counsel appearing for the Respondent-Management and Mr. Patil, learned AGP appearing for Respondent No.7/State.

3. The main ground on which review of operative portion of the judgment and order dated 20 September 2024 is sought is the direction given by this Court to the Management to take appropriate decision on separate reports of the three members of the Inquiry Committee. Mr. Godbole sees twin errors in the said directions in paragraph 16 of the order under review. According to him, Rule 37(6) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (**MEPS Rules**) mandate that the decision relating to punishment should be taken by Inquiry Committee and the Management merely needs to implement the same. According to him the statutory scheme of the MEPS Act and the Rules do not recognize any right in favour the Management to take an independent decision in the inquiry.

4. The second error pointed out by Mr. Godbole is about permissibility to consider two separate reports submitted by three members of the Inquiry Committee. He places reliance on judgment of the Apex Court in ***Vidya Vikas Mandal and another vs. The Education Officer and another***, 2007 (3) Mh.L.J. 801 in support of his contention that all the members of the committee must submit a combined report by sitting together.

5. I find considerable force in the submissions canvassed by Mr. Godbole. In the present case there appears to be report

submitted by Shri Vinayak Pandarinath Bhongale and Shri Hanumant Anant Kobade holding the Petitioner guilty of charges and recommending imposition of punishment of termination from service. There is an independent and separate report by the third committee member Shri B.T. Andhale holding that the charges levelled against the Petitioner are not proved. As held by the Apex Court in ***Vidya Vikas Mandal*** (supra), all three members will have to sit together and submit a combined report to the Management. Secondly the Management cannot be directed to take a decision but the Management is supposed to only implement the decision that is taken by the Inquiry Committee in its combined report.

6. It appears that towards implementation of the order under review, the Management has already issued termination order dated 14 October 2024. If the operative part of the order is not reviewed, the fresh termination order dated 14 October 2024 would again be susceptible to challenge on the ground of the Management taking decision relating to punishment in contravention of provisions of Rule 37(6) of MEPS Rules as well as failure to submit a combined report by all three members of the Inquiry Committee. In order to obviate another set of challenge on that count, it would be appropriate that the operative part of the order under review is modified so as to prevent any further litigation between the parties on the said issue. It appears that attention of this Court was drawn to the

provisions of Rule 37(6) of MEPS Rules as well as judgment of the Apex Court in ***Vidya Vikas Mandal*** (supra) and there appears to be an error apparent on face of record in the order under review directing Management to take a decision based on two separate reports of members of the Inquiry Committee. In that view of the matter, this is a fit case where power of review needs to be exercised for correcting an obvious error in the operative part of the order. Though several other contentions are sought to be raised in the Review Petition relating to the merits of the finding recorded in the order under review, I am not inclined to consider or accept the said points as the same would amount to exercising jurisdiction of appeal over the judgment and order dated 20 September 2024.

7. The Review Petition accordingly partly succeeds and I proceed to pass the following order:

i) Paragraph 16 of the judgment and order dated 20 September 2024 shall stand deleted and substituted by the following order:

“16 The matter is relegated to the Inquiry Committee whose members shall sit together and prepare a combined report under provisions of Rule 37(6) of MEPS Rules and submit the same to the Management for implementation. Based on the

recommendations made by the Committee in the combined report as well as decision taken for imposition of punishment or otherwise, the Management shall proceed to implement the said decision. The members of the Inquiry Committee shall complete the process of submitting a combined inquiry report within a period of four weeks and the Management shall take a decision for implementation of combined report of the Inquiry Committee within a period of two weeks thereafter. For the purpose of enabling the Inquiry Committee and Management to take a fresh decision, the termination order dated 14 October 2024 stands set aside. The Petitioner shall however not claim any backwages in respect of the period from 20 September 2024 onwards on account of setting aside order dated 14 October 2024.”

8. With the above directions, the Review Petition is partly allowed and **disposed of**. No costs.

9. In view of the disposal of the Review Petition, nothing would survive in the Interim Application and the same is also accordingly **disposed of**.

(SANDEEP V. MARNE, J.)

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