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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.12678 OF 2025

Sarvajanik Shikshan Sanstha,
through it's Joint Secretary
Bhaskar Dange & Anr.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

ATUL
GANESH
KULKARNI

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Mr. Arvind G. Kothari i/by Mr. Shaikh Nasir Masih for
the petitioners.

Ms. Aloka A. Nadkarni, AGP for respondent Nos.1 to 3-
State.

Mr. Lalasaheb Bandal for respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : APRIL 24, 2025

P.C.:

1. The present writ petition, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, assails the legality, propriety, and correctness of the Judgment and Order dated *13 December 2024* passed by the learned Presiding Officer, School Tribunal, Navi Mumbai in Appeal No.26 of 2022. By the said order, the School Tribunal directed the petitioners to reinstate respondent No.4 with continuity in service and back-wages.

2. The facts leading to the filing of this petition, though not in

serious dispute, deserve brief recounting for contextual appreciation.

3. Respondent No.4 was initially appointed as a peon in the petitioner-institution with effect from 1 June 2003. It appears that prior to the inquiry which forms the subject matter of the present litigation, there were earlier inquiries initiated against the respondent, details whereof are not relevant for the present proceedings. The charge-sheet which initiated the present inquiry is dated 6 March 2019. The charges primarily pertained to unauthorized absence for the period from 9 October 2015 to 7 March 2017, and as per the statement of allegations, such absence allegedly continued till issuance of the charge-sheet.

4. An Inquiry Committee, duly constituted, conducted the inquiry and submitted its report on 13 July 2022, concluding that the charges stood proved. In light of the said finding, the penalty of termination was imposed in accordance with Rule 29(5) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("MEPS Rules").

5. Upon submission of the report, the Management, by its communication dated 19 July 2022, informed respondent No.4 of acceptance of the report and conveyed the decision to terminate his services. Additionally, it was noted therein that respondent No.4 had continued to remain absent for a further period from 19 January 2019 to 16 July 2023. Invoking Rule 16(3) of the MEPS Rules, the Management declared that respondent No.4 had ceased to be in service due to continuous absence.

6. Aggrieved thereby, respondent No.4 filed Appeal No.26 of 2022 before the School Tribunal. In the appeal, the Management entered appearance and filed its reply, opposing the appeal on multiple grounds. It placed reliance on communications dated 18 April 2016, 7 July 2016, 11 January 2019, 18 January 2019, 6 March 2019, and 23 March 2019, issued to respondent No.4, calling upon him to report for duty.

7. It is the case of respondent No.4 that he had expressed willingness to rejoin service but was not permitted by the Management to resume duty. Such a factual dispute undoubtedly warranted adjudication on merits by the Tribunal upon appreciation of evidence and material placed on record by both parties.

8. The School Tribunal, however, chose not to address these issues on merits. It proceeded to allow the appeal solely on the basis of Rule 37(5) of the MEPS Rules, observing that since the inquiry had not been concluded within the stipulated period of 120 days, the report was rendered null and void. This interpretation, in my considered view, is manifestly erroneous and contrary to the binding pronouncement of the Division Bench of this Court in *Thapar Education Society & Anr. v. Shyam Maroti Bhasarkar & Ors.*, 1997 (3) Mh.L.J. 709. In that case, the Court authoritatively held that the consequence of not completing the inquiry within 120 days is not the vitiation of the inquiry per se, but only the cessation of suspension, thereby entitling the employee to resume duty, unless extension is granted by the competent authority.

9. The Tribunal, therefore, fell into error in reading Rule 37(5) in isolation and out of context, without applying the binding precedent. The cardinal principle that a statutory rule must be read harmoniously with the object of the enactment and in the backdrop of judicial pronouncements has been disregarded. The impugned order is conspicuously silent on the contentions raised by the Management, the documentary evidence produced, or the conduct of the employee during the relevant period. Such cursory disposal of a lis by a judicial forum entrusted with quasi-judicial powers defeats the purpose of adjudication and causes grave prejudice to parties.

10. In the interest of justice, therefore, and to afford fair opportunity to both sides to put forth their respective cases, the impugned judgment and order dated *13 December 2024* passed by the learned Presiding Officer, School Tribunal, Navi Mumbai, is quashed and set aside.

11. Rule is made absolute in terms of prayer clause (a). No order as to costs.

12. Appeal No.26 of 2022 is restored to the file of the School Tribunal, Navi Mumbai. The same shall be decided afresh on its own merits, uninfluenced by any observations made in the impugned judgment.

13. Having regard to the passage of time and the nature of controversy, the School Tribunal is directed to decide the restored appeal as expeditiously as possible and in any case within a period of nine months from the date of first appearance of the parties.

14. The parties shall remain present before the School Tribunal, Navi Mumbai, on 2 May 2025 at 10:00 a.m., without awaiting further notice.

15. It is clarified that all contentions of both sides are expressly kept open to be urged before the Tribunal and shall be decided in accordance with law.

16. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 2 December 2025. Corrections in paragraphs 1 and 10 are shown in italicize.