



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.335 OF 2021

Ku. Jayashri D/o Mahadeorao Lokhande, Vidya Nagar, Dhanora, Dist. Gadchiroli

-vs-

State of Maharashtra, Thr. Secretary, Ministry of Secondary Education, Mantralaya, Mumbai and
ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri R. G. Kavimandan, Advocate h/f Shri D. R. Khapre, Advocate for petitioner.
Smt S. S. Jachak, Additional Government Pleader for respondent Nos.1 to 4.
Shri N. S. Warulkar, Advocate for respondent No.5.
Ms Aparna Telang, Advocate h/f Shri A. P. Tathod, Advocate for respondent No.6.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : March 19, 2025

P. C.

1. Heard.

2. The petitioner, the Head Mistress of the school managed by
respondent No.5 has approached this Court with the following prayers :

*(1) Quash and set aside proceedings transacted by Respondent No.5
in Inquiry Committee on 28, 29, 30 and 31st December 2020 and
further be pleased to stay further proceedings in said Inquiry till
decision of Change Report Case No.35/2020 pending on the file of
Assistant Charity Commissioner, Chandrapur;*

*(2) In the alternative, this Hon'ble Court further be pleased to
quash and set aside proceedings transacted in meeting of Inquiry
Committee on 28, 29, 30 and 31st December, 2020 being conducted in
violation of directions given by District Disaster Management
Authority dated 17/11/2020 at Annexure-28 and further be pleased to
direct Respondent no.5 to stay said proceedings till normal activities
of school are started and are permitted by District Disaster
Management Authority;*

(3) During the pendency of petition, further proceedings of Inquiry

Committee initiated by Respondent no.5 against Petitioner may kindly be stayed till the decision of present petition and

(3-I) Ad-interim ex-parte relief in terms of prayer clause-3 may kindly be granted;

(3-II) It be directed that, all proceedings held by so-called enquiry committee after 19/01/2021 stands nullified being held in contravention of orders passed by this Hon'ble court dated 10/01/2021 and dated 10/03/2021 and status quo ante in respect of the proceedings of enquiry as before 19/01/2021 be restored in the interest of justice.

3. It is case of the petitioner that the disciplinary proceedings initiated against her by the respondent No.5 are illegal as per the entry in Schedule-I of the respondent No.5-Trust viz. the authorised body has not initiated the proceedings.

4. Shri R. G. Kavimandan, counsel appearing for the petitioner has invited our attention to the fact about pendency of Change Report proceedings bearing Change Report Case No.35/2020 on the file of the Assistant Charity Commissioner, Chandrapur in regard to change occurred in the respondent No.5-Trust. Apart from above, it is claimed that the enquiry proceedings conducted on 28/12/2020 to 31/12/2020 against the petitioner are also required to be recalled by directing the Enquiry Committee to re-conduct the proceedings held on the aforesaid dates. In support of the said prayer, the learned counsel has invited our attention to the fact of there being COVID pandemic situation at the relevant point of time which led the petitioner having not effectively

attending the disciplinary proceedings on the said dates. He would further urge that the directions issued by the Enquiry Committee after 19/01/2021 stands nullified being in contravention of the orders passed by the hon'ble Court on 19/01/2021 and/or 10/03/2021 wherein *status quo ante* in respect of the proceedings of enquiry as on 19/01/2021 was granted.

5. The aforesaid contentions are disputed by Shri N. S. Warulkar, counsel appearing for respondent No.5-Management. According to him, in case if in the disciplinary proceedings the petitioner is held guilty and consequentially any adverse order is passed against the interest of the petitioner, same can be subjected to challenge before the competent forum. He would claim that the Court may not cause interference in extra ordinary jurisdiction in the matter of pending disciplinary proceedings particularly having regard to the order dated 03/01/2020 passed by the Assistant Charity Commissioner below Exhibit-1 in Misc. Application No.72/2019 which are the proceedings initiated under Section 41-A of the Maharashtra Public Trusts Act, 1950. It is claimed by the counsel for the respondent-Management that by virtue of the said order dated 03/01/2020, the Assistant Charity Commissioner has directed the administrative body of the Trust whose names are incorporated in Schedule-I maintained under the Maharashtra Public Trusts Act to manage the Trust till the decision of the said Change Report proceedings. As such he would claim that the

petition is liable to be dismissed.

6. Counsel appearing for respondent No.6 has supported the claim of the petitioner.

To the aforesaid, counsel for respondent No.5 has stated that respondent No.6 is not part of Schedule-I and as such has no lawful claim in the matter having regard to the order dated 03/01/2020 as till this date, the Change Report proceedings are still pending consideration.

7. We have appreciated the rival contentions.

Counsel for respondent No.5 would further urge that in case if the petitioner approaches the Enquiry Officer for recalling the proceedings conducted on 28/12/2020 to 31/12/2020, the same shall be considered favourably.

8. In the aforesaid background, we are of the view that since the claim of the petitioner to the extent of re-consideration of the disciplinary proceedings conducted on 28/12/2020 to 31/12/2020 are agreed to be re-considered by the Disciplinary Authority and the Enquiry Officer i.e. respondent No.5, the grievance of the petitioner to the extent of arbitrarily conducting disciplinary proceedings against the petitioner by respondent No.5 no more survives.

9. As regards the rest of the prayers are concerned, we are of the view that in view of the order dated 03/01/2020 passed by the Assistant Charity Commissioner, at this stage it cannot be said that respondent No.5 is not armed with the authority to conduct disciplinary proceedings against the petitioner in law.

10. Apart from above, the issue that in case if the order passed by respondent No.5 is adverse to the interest of the petitioner, can be gone into in an appropriate proceedings to be initiated by the petitioner. That being so, we deem it appropriate to dispose the petition in view of assurance given by respondent No.5 as regards re-consideration of the disciplinary proceedings conducted on 28/12/2020 to 31/12/2020. For that purpose, we permit the petitioner to appear before the Enquiry Officer on 02/04/2025.

No order as to costs.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)