



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**Writ Petition No.333/2022**

**urushottam and another V Director of School Education, Pune and others**

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Mr. A.Z. Jibhkate, Advocate for petitioners.  
Mr. Shambharkar, Adv for resp. no.4.  
Mr. Anand Parchure, Adv for resp. no.2.  
Mr. N.S. Warulkar, Adv for resp. no.4.  
Mr. Dubey, AGP for resp. nos.1 and 3.

**CORAM : R.M. Joshi, J.**

**DATE : 24-06-2025.**

This petition takes exception to the order dated 10-01-2022 passed by the Dispute Redressal Committee, Maharashtra State Secondary and Higher Secondary Education Board, Nagpur, whereby the appointment of the petitioner no.1 on the post of headmaster in the school of Shubham Bahuudeshiya Sanstha, Waddhamna.

2. The facts which led to the filing of the petition can be narrated in brief as under-

3. The petitioner no.1 is an employee of petitioner no.2 and was appointed on the post of Headmaster. This appointment came in the backdrop of suspension of erstwhile Headmistress of the school who also happened to be wife of ex-president of the Trust i.e. respondent no.4 herein. The said suspension came to be challenged

by her in Writ Petition No.2906/2017. This petition came to be dismissed by this Court on 27-06-2017. petitioner no.1 being senior-most amongst other approved teachers, he was given administrative and financial powers as in-charge Headmaster on 24-05-2017. Respondent no.3 by order dated 21-11-2017 extended the administrative and financial powers for a period of six months and it was directed to the management to fill in the post of Headmaster. Since there was direction from the Education Officer to fill in the post of Headmaster, Committee of petitioner no.2 in its meeting held on 16-11-2019 unanimously resolved to promote the petitioner no.1 on the post of Headmaster. The said promotion was made subject to the outcome of the decision of the proceeding filed by erstwhile Headmistress. The proposal of the promotion of the petitioner no.1 as a Headmaster came to be accepted on a condition that if the decision of the proceeding goes in favour of the then Headmistress, he would not claim the said post. It is claimed that there was subsequent termination of the then Headmistress from the school as such there was no bar for filling up the vacancy of the Headmaster occurred for that reason. The respondent no.4 who is the ex-president of the trust hold a complaint before the Dispute Redressal Committee (respondent no.2) for cancellation of the approval granted by respondent no.3 Education Officer to the promotion of petitioner no.1. The Dispute

Redressal Committee allowed the said complaint by passing impugned order and cancelled the approval granted to the petitioner no.1 for promotion on the post of Headmaster.

4. Learned Counsel for the petitioner submits that there is no dispute about the fact that the erstwhile Headmaster, who is the wife of respondent no.4 came to be terminated with effect from 25-08-2017 and that the said order of termination was challenged by filing appeal under Section 9 of the Maharashtra Employees of Private School Regulation Act, 1977 (for short 'MEPS Act') before the School Tribunal in Appeal No.38/2017 unsuccessfully and said order came to be challenged before this Court. It is his contention that there is nothing in the rules which preclude the management from appointing/promoting any employee to the post which became vacant on account of termination of service of the erstwhile Headmaster. He drew attention of the Court to the Rules framed under the MEPS Act to contend that there is no bar created for such appointment. It is his submission that as per the relevant Government Resolution dated 22-12-1995, the only requirement for approval of his promotion to the post would be such order is subject to the outcome of the proceedings pending before the School Tribunal or any other competent authority/Court.

5. Learned Counsel for the contesting respondent submits that the respondent no.4 had right to raise a dispute before the

Dispute Redressal Committee. It is his submission that in view of Government Resolution dated 26-02-2020, it is open for him to make such grievance and that the Committee has jurisdiction to entertain the same. It is his further submission that the petitioner no.1 was not eligible to be promoted to the post of Headmaster. Thus, he seeks to make submissions of the point of the merit of the decision of promoting petitioner no.1 to the said post.

6. During the course of hearing a specific query was made to the learned Counsel for the respondent no.4 to point out as to whether there is any bar to the appointment of the person in the post of Headmaster in view of the fact that the erstwhile Headmaster has been removed from service and the proceedings against the said termination are pending before the School Tribunal or any competent Court. The candid answer to the said query is in negative.

7. Once it is held that there was no embargo for the management to appoint any person in place of the terminated Headmistress, the question of causing interference into the said order of appointment would not arise.

8. If any person was aggrieved by his appointment as a Headmaster and had claimed to make against the said post, it was open for such person being aggrieved person to move before the School Tribunal taking exception to the decision of the management.

Respondent no.4 is admittedly not aggrieved party nor claims any right in the said post.

9. Apart from this, perusal of the order impugned indicates that the Committee has erred in holding that the order of approval is just to be cancelled in view of the Government Resolution dated 22-12-1995. Perusal of the said Government Resolution indicates that in case of termination of service of any employee and where such termination has not been stayed by the School Tribunal, it would be open for the management to fill up the said post. However said post could be filled up subject to the condition that an undertaking is obtained from such employee that in case the decision is given by the Tribunal in favour of the appellant therein, he would not claim any benefits of the post and immediately be released from the post. The relevant Rules i.e Rule No.3(5) of the Maharashtra Employees of Private School Regulation Act, 1981 provides that not only the appointment on the such post can be made through a new employee but it can also be made by way of promotion. Once there is no embargo for promoting a person, to fill up the post which has become vacant on account of termination of services of the earlier employee, there was no reason or justification for the Dispute Redressal Committee to cause interference in the said order and to direct

cancellation of the order of approval. As a result of above discussion, there is merit in the petition.

10. The order impugned cannot sustain being contrary to the provisions of law. Hence, is hereby set aside.

11. Petition stands allowed in the aforestated terms.

(R.M. Joshi, J.)