



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

WRIT PETITION NO.2898 OF 2024

Praful Ashok Tajane, aged about 34 years, Occ.
Service, r/o At chek Tirwanja (Kawathi) Post.
Kacharala, Tq. Bhadrawati, Dist. Chandrapur.

... PETITIONER

VERSUS

1. State of Maharashtra, through its Secretary,
Department of Education, Mantralaya,
Mumbai – 32.
2. Dy. Director of Education, Nagpur Division,
Nagpur.
3. Education Officer (Sec.), Zilla Parishad,
Wardha.
4. Jijamata Shikshan Prasarak Mandal,
Narayanpur, through its Secretary, Tq.
Samudrapur, Dist. Wardha.
5. Shikshan Maharshri Swargiya Shri
Krushnarao Zoting Patil Vidyalaya, through
its Secretary, Narayanpur, Tq. Samudrapur,
Dist. Wardha.
6. Vikas Vidyalaya, through its Headmaster,
Tq. Samurdapur, Dist. Wardha.

... RESPONDENTS

Shri P.P. Thakare, Advocate for the petitioner.
Ms Sapkal, Assistant Government Pleader for the respondent nos. 1 to 3.
Shri N.D. Khamborkar, Advocate for respondent nos. 5 and 6.
Respondent no. 4 is served.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.
DATE : 27.06.2025.

ORAL JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. By this petition, the petitioner is challenging the order of respondent no.2 Deputy Director of Education dated 19.01.2024 by which respondent no.2 Deputy Director of Education while considering the proposal of inclusion of one Mr. Rokde in the Shalarth Pranali held that, the services of the petitioner, in view of the decision of the School Tribunal in Appeal No.1/2017 filed by Mr. Rokde, deserves to be terminated. Consequently, respondent no.3 Education Officer by his further impugned order dated 24.01.2024 informed respondent no. 4 that the approval granted to the services of the petitioner be cancelled

and he is not entitle to be declared as a surplus employee and thereby informed respondent no.5, that the petitioner should be reverted back to his original School. In this background, the petitioner approached before this Court by alleging that entire action of respondent nos.2 and 3 being contrary to the provisions of law as well as by exceeding their jurisdiction, hence, the same deserves to be quashed and set aside.

4. Before advertng to merits of the matter, it will be necessary to first look into the admitted factual position of the present case. It is undisputed fact that respondent no. 2 by his order dated 23.09.2013 granted permission to respondent no. 4 Society to fill up two vacant posts one for subject Mathematics and another for English. Accordingly, respondent no. 3 Education Officer after verifying the roster permitted respondent no. 4 to fill up one post from Scheduled Caste category and another from open category.

5. In pursuance of permission granted by respondent nos. 2 and 3, respondent no.5 Management published the Advertisement and call eligible candidates for the aforesaid post. The petitioner, accordingly, applied for the post of Assistant Teacher for English subject from open category. By following due procedure of law, the petitioner came to be appointed against clear and vacant post in the respondent

no.4 School. It is stated that respondent no.3 Education Officer by his order dated 02.08.2017 granted approval to the appointment of the petitioner with effect from 26.05.2016 for a period three years as a Shikshan Sewak.

6. It is necessary to point out that during the period when proposal of approval of the petitioner was under consideration before respondent no.3 Education Officer, the services of one Shri Rokde was terminated by the Management as a Headmaster of the School. Against the said termination, Appeal bearing No.1/2017 was pending before the School Tribunal, Chandrapur. In the said appeal, his prayer for interim relief was rejected. Against which Shri Rokde preferred Writ Petition No.2584 of 2013 before this Court and same was dismissed on 04.07.2013. According to the petitioner, there was no relation of the petitioner with the Writ Petition which was decided long back on 04.07.2013 nor he was party to that proceeding. However, respondent no.3 without considering this factual position, granted approval to the services of the petitioner subject to decision of Writ Petition No.2584/2013.

7. It is stated that the appeal filed by Shri Rokde before the School Tribunal, Chandrapur bearing Appeal No.1/2017 was finally

decided by judgment and order dated 11.11.2022. Learned School Tribunal directed the Management to reinstate Shri Rokde against the post of Headmaster in respondent no.5 School. Respondent no. 4 Management against the judgment of the School Tribunal, preferred Writ Petition No.76 of 2023 before this Court. This Court vide order dated 09.01.2023, dismissed the petition filed by the Management. As such, the judgment of the learned Tribunal attended finality in the matter.

8. It is further admitted fact that during the pendency of appeal of Shri Rokde before the School Tribunal, one Shri Meshram was promoted as a Headmaster and same was approved by respondent no.3 Education Officer subject to the decision of the pending appeal. As such, the dispute between Shri Rokde and Shri Meshram was the subject matter of the appeal decided by the School Tribunal, Chandrapur.

9. It is however informed us that after the decision of the School Tribunal, in Appeal No. 1/2017 there was compromise between Shri Rokde, Shri Meshram and the Management. Accordingly Shri Rokde agreed to work as an Assistant Headmaster and Shri Meshram was decided to be continued as a Headmaster of the School. In view of

this understanding and accommodation of Shri Rokde as an Assistant Headmaster, one post of Teacher became excess in the School. As such, the Education Officer by his order dated 24.08.2023 declared the petitioner as an excess teacher and directed to absorb his services at respondent no. 6 School. Accordingly, the petitioner joined respondent no.6 School on 02.02.2024. Since then the petitioner is in continuous service in the respondent no. 6 School.

10. In the aforesaid factual position, it is, thus, clear that Shri Rokde joined the post of Assistant Headmaster, Shri Meshram continued as Headmaster of respondent no.5 School. The petitioner who was declared excess, had joined at respondent no. 6 School. Hence, there was no dispute about any issue between the parties.

11. It is stated that the State Government by its Government Resolution dated 07.11.2012 introduced the Shalarth Pranali. According to the said Scheme, the Shalarth ID is a code given to the teaching/non-teaching staff of aided school in the State of Maharashtra. The primary purpose is to create a database and facilitate the paperless disbursement of the grant, particularly the salary grant. Regarding the eligibility to receive such grant, the Education Officer granted approval to the appointment of teaching and non-teaching staff

made by such aided institution. Hence, as per the Scheme after the appointment of an employee instead of maintaining physical registers, an ID Code is created. The same is required to be confirmed by the office of the Deputy Director of Education and on that basis, monthly salary of the approved teacher is disbursed from the Department.

12. It is stated that in view of the judgment of the School Tribunal, in case of Shri Rokde which was confirmed by this Court, the Management had appointed him on the post of Assistant Headmaster in the School as per the compromise between them. Then after the proposal was forwarded to include the name of Shri Rokde in the Shalarth Pranali to the office of the Deputy Director of Education as per the Scheme of Shalarth Pranali,

13. Respondent no. 2 while exercising the powers of inclusion of the name of Shri Rokde in the Shalarth Pranali by his order dated 19.01.2024 observed that by the judgment of the School Tribunal, Shri Rokde was directed to be reinstated as a Headmaster. However, the proposal of Assistant Headmaster has been forwarded instead of the Headmaster. Hence, according to him, said proposal itself was incorrect, and therefore, he held that the proposal forwarded by the Education Officer to include name of Shri Rokde in the Shalarth Pranali

as an Assistant Headmaster is itself illegal. Accordingly, he directed to include his name in the Shalarth Pranali as a Headmaster of the School. Further by exceeding his jurisdiction without disclosing any reason directed the Education Officer to revert back Shri Meshram as an Assistant Headmaster and his name be corrected in the Shalarth Pranali and also issued direction to initiate appropriate action to terminate the services of the petitioner.

14. Respondent no.3 Education Officer in pursuance of directions of Deputy Director of Education dated 19.01.2024, issued further communication to the Management on 24.01.2024 thereby directed that in view of the reinstatement of Shri Rokde, the approval granted in favour of petitioner automatically comes to an end and consequently, he cannot be declared as a surplus. Hence, unilaterally cancelled the approval of the petitioner and directed the Management to take appropriate action to terminate the services of the petitioner.

15. Respondent no. 3 further made communication with respondent no. 6 where the services of the petitioner has been absorbed as an excess teacher of respondent no. 4 School. It is informed by respondent no. 3 that as the directions were given to terminate the services of the petitioner, it is not possible to continue his services in the

respondent no.6 School. Accordingly, the petitioner be repatriated to his parent school.

16. In the circumstances, the issue involved in the matter is whether the respondent nos.2 and 3 are justified to take such adverse action against the petitioner and whether action taken by them is justified under the provisions of law.

17. From the record, it is clear that appointment of the petitioner was made by following due procedure of law as contemplated under the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short 'the MEPS Act') along with Rules framed thereunder.

18. Furthermore, the Appointing Authority of the petitioner is respondent no. 4 Management. Hence, considering this aspect, we are of the confirmed opinion that respondent nos.2 and 3 have no authority to issue direction to the Management to terminate the services of the petitioner. The said authority lies only with Appointing Authority i.e. Management.

19. In the case of *Santosh Baliram Dalvi vs. Smt. Bharti Ganpati Jadhav and ors.* 2006 SCC OnLine Bom 1266 this Court has

dealt with identical issue and observed that, there is no statutory provisions empowering the Deputy Director of Education or the Education Officer to issue direction to terminate the services of the employees. Hence, *prima facie* directions issued by respondent nos. 2 and 3 to terminate the services of the petitioner is not justified in the matter.

20. It is further pertinent to note that there is no factual dispute in respect of either appointment or approval of petitioner. From record, it is clear that same was by following due procedure of law as contemplated under Section 5 and Rule 9 of the MEPS Rules. It is not a case of any of the respondents that the petitioner was appointed as a substitute of Shri Rokde. Rather his appointment was on clear and vacant post, hence, there was no reason for the respondent nos. 2 and 3 to disturb the status of the petitioner from respondent no.6 School. In the circumstances, we are, *prima facie*, find that respondent nos.2 and 3 by exceeding their jurisdiction, passed the impugned orders, which is not sustainable in the eyes of law.

21. It is further stated that as per the Resolution of the School Committee, at the time of appointment of the petitioner vide Resolution No.2 dated 17.05.2016 clearly stated that in place of Shri Jenekar, the

petitioner has been appointed for subject English. However, neither the respondent no.2 nor respondent no.3 looked into the record of the School and passed adverse order against the petitioner that too without granting any hearing opportunity.

22. In the circumstances, the impugned order dated 19.01.2024 passed by the Deputy Director of Education and subsequent orders dated 24.01.2024 and 27.02.2024 passed by respondent no. 3 Education Officer (Secondary), Zilla Parishad, Wardha, are hereby quash and set aside.

23. It is further made clear that services of the petitioner shall remain continue in the respondent no. 6 School and he is entitled for the arrears of salary from the date of the impugned order dated 19.01.2024 up to till date. Respondent no.3 Education Officer is directed to release the back-wages of the petitioner within a period of three months from the date of this order, which is withheld since January 2024.

24. Rule is made absolute in aforestated terms. No costs.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

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