



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

WRIT PETITION NO.3741 OF 2024

PETITIONER

: Gram Sudhar Shikshan Prasarak Mandal, Ambala Tah. Narkhed. Dist. Nagpur bearing P.T.R. No. F-7764 (N) through its President Shri Nanaji Madhavraoji Bele Aged about 68 years, Occ.- Cultivator, R/o Ambala (Saywada), Post.- Thadipaoni, Tah. Narkhed, Dist. Nagpur.

...VERSUS...

RESPONDENTS

1. Shri. Dhyaneshwar Narayanrao Pachpohar, Aged about 55 years, Occ. Service, R/o. Ambala, (Saywada), Tah. Narkhed, Dist. Nagpur
2. Gram Sudhar Shikshan Prasarak Mandal, Ambala Tah. Narkhed, Dist. Nagpur bearing P.T.R. No. F-7764(N) through its Secretary R/o C/o office at Ambala (Saywada), Post. Thadipaoni, Tah. Narkhed, Dist. Nagpur.
3. The Education Officer (Sec.) Zilla Parishad, Nagpur

Mr. S.D. Abhyankar, Advocate for the Petitioner.
Mr. A.A. Madiwale, AGP for the Respondent/State.
Mr. Rahul Borse, Advocate for Respondent No.1.
Adv. Gunjan R. Kothari, for Respondent No.2.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 14/10/2025

JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsels at the stage of admission.

2. By way of the present writ petition, the petitioner-management is challenging the order dated 30.04.2024 passed by the learned School Tribunal, Nagpur in Appeal No.1/2023 whereby, it has allowed the appeal filed by the respondent herein.

3. Learned counsel for the petitioner vehemently submitted that the Vice President has initiated an enquiry. As per the provisions under Maharashtra Employees of Private School (Conditions of Service) Rules, 1981 (for short "MEPS"). In-spite of giving notices, the respondent/employee did not participate in the enquiry and therefore, it was proceeded ex-parte against him thereby, the management took a decision to terminate the services of the employee/respondent.

4. Learned counsel for the petitioner further submits that, even if there is a dispute in the management, the employee was

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required to participate in the enquiry and if, he chose not to, then it can be said that the termination order was rightly passed after following due procedure contemplated under the MEPS.

5. He further submits that the learned School Tribunal did not consider the fact that the enquiry which was conducted against the respondent-employee was in accordance with the MEPS, yet there was no finding recorded by the learned School Tribunal about the enquiry conducted against the employee. Learned School Tribunal, allowed the appeal only on the ground that there was a dispute in the management and the person who conducted the enquiry, was not authorized to conduct it.

6. In support of his contention, counsel for petitioner relied upon the law laid down by this Court in the matter of **Anupama Kishor Khanolkar Vs. Abhinav Education Society** passed in Writ Petition No.7169/2002 decided on 20.08.2016 and specifically invited my attention towards para No.56, which is reproduced as follows :-

“56. I am not inclined to accept the submission of the learned counsel for the petitioner that the petitioner did not attend the enquiry proceedings to avoid any further harassment which would have been meted out to her by the management during the course of the enquiry proceedings. In my view, an employee cannot refuse to participate in the enquiry proceedings on the ground that he or she was apprehending any harassment by the management or by

the enquiry committee. If the petitioner has chosen to remain absent due to any alleged apprehension of harassment in her mind during the course of the proceedings, in my view, such a reason cannot be accepted as a valid reason for not participating in the enquiry proceedings. No indulgence on such ground can be shown to the petitioner by this Court. In my view on this ground the enquiry proceedings cannot be considered as in violation of principles of natural justice or vitiated on that ground.”

7. Learned counsel for the petitioner further submits that the learned School Tribunal committed an apparent error and even the findings recorded by it are perverse and prayed to allow the present writ petition. Learned counsel for the petitioner further submits that when President was no more, as per the by-laws of the Trust, the power automatically goes to the Vice President and therefore, the Vice President has rightly initiated the enquiry.

8. Per contra, learned counsel for the respondent-employee supports the order passed by the learned School Tribunal. He contended that there is a dispute in the management and there are warring groups fighting against each other to establish control over the management. Respondent being the Head Master, the enquiry ought to have been initiated by the President as per Rule 36(2) of the MEPS. Learned counsel for the respondent further submits that the Vice President who initiated the enquiry was not in-fact part of the management and

therefore, he was not having any authority to initiate the enquiry, against the respondent-employee.

9. Learned counsel for the respondent further submits that respondent being a permanent employee, who has rendered more than 27 years of service under this management and only to see him removed from the services, the other group initiated the enquiry through a person who was not authorized to do so. Therefore, the respondent has not participated in the enquiry. He further submitted that the learned School Tribunal has recorded findings considering the pleading of the parties which are proper and prayed to dismiss the petition.

10. I have gone through the order passed by the learned School Tribunal, as well as the documents which are placed on record. Admittedly, there was a dispute in the management and there were warring groups fighting against each other to establish control over the management. Naturally, the employees are the ones, who ultimately suffer due to it. Apart from that, the Vice President who initiated the enquiry led one group and proceedings are pending before the Learned Assistant Charity Commissioner and last change report came to be accepted in the year 1993 and thereafter, no change report has been

accepted and proceedings are pending before the respective authorities under the Maharashtra Public Trusts Act.

11. The contention of the petitioner regarding the powers of the Vice President that though the by-laws provide that in-case of death of president, the Vice President may initiate the enquiry, nevertheless, the change report ought to have been submitted and the same should have been accepted for Vice President to step in the shoes of the President. It is clear that there are counter submissions made by both the counsels about the pendency of the change report but, without going into it and the fact that the two groups are fighting against each other, employee cannot be left to suffer. Considering the long-standing tenure of Headmaster, the contention of the learned counsel for the petitioner is liable to be rejected.

12. Considering the fact that the petitioner being Head Master and a permanent employee having rendered 27 years of service, it was for the President to initiate the enquiry but, in the present case the Vice President had initiated and conducted the enquiry and therefore, the findings recorded by the learned School Tribunal are proper and I do not find any reason to interfere with the order passed by the learned

School Tribunal under Article 227 of the Constitution of India.

Accordingly, I pass the following order :-

ORDER

(1) The Writ Petition is **dismissed**.

Rule is **discharged**.

(**SIDDHESHWAR S. THOMBRE, J.**)