



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

WRIT PETITION NO. 6418 OF 2019

- | | | |
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| <ol style="list-style-type: none"> 1. Late Motiram Naik Shikshan Sanstha
Vithala through its Secretary
Adv.Sudhakar s/o Piru Jadhav
Digras Tq Digras Dist. Yavatmal 2. Lalibai VJNT Arts and Science Junior
College Tiwari through its Principal
R/o Digras Tq Digras Dist. Yavatmal | } | .. Petitioners |
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Versus

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| <ol style="list-style-type: none"> 1) The Education Officer (Secondary)
Zilla Parishad, Yavatmal, Dist.Yavatmal 2) The Assistant Commissioner,
Social Welfare Department,
Yavatmal Dist. Yavatmal 3) Sachin s/o Devisingh Jadhav
Aged about 38 years, Occu : Teacher
R/o C/o Kanha Hospital
Near Surjuse Hospital, Tilak Wadi
Yavatmal Tq and Dist. Yavatmal | } | .. Respondents |
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WITH
WRIT PETITION NO. 6681 OF 2019

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| <ol style="list-style-type: none"> 1. Mr. Sachin s/o Devisingh Jadhav
Aged about 39 years, Occu : Teacher
Registered Address – C/o Kanha
Hospital, Shivaji Chowk, Digras
Dist. Yavatmal | } | .. Petitioner |
|--|---|----------------------|

Versus

1. Late Motiram Naik Shikshan Sanstha
Vithala, Tahsil Digras, Dist. Yavatmal
PTR No.F-813/84 (YTL) through its
Secretary Adv.Sudhakar s/o Piru Jadhav
2. The Inquiry Committee,
Through its Members -
a) Mr. Prabhakar S/o. Piru Jadhav

R/o. Vithala, Tahsil Digras,
Dist. Yavatmal

b) Mr. Sanjay S/o. Narayanrao Phalke
R/o. Jirapure Layout, Singhaniya
Nagar Arni Road, Yavatmal.

3. The Education Officer (Secondary)
Zilla Parishad, Yavatmal
4. The Assistant Commissioner
Social Welfare Department, Yavatmal
Dist. Yavatmal
5. Lalibai VJ NT Arts and Science Junior
College, Tiwri, Tahsil Digras
Dist. Yavatmal, Through its Principal
6. The Presiding Officer,
School Tribunal, Amravati.

.. Respondents

Mr.A.D.Mohgaonkar, Advocate for petitioners in WP No.6418/2019 and
for respondent Nos.1 and 5 in WP No.6681/2019.

Mr.Harish Dangre, Advocate for respondent No.3 in WP No.6418/2019
and for petitioner in WP No.6681/2019.

Mr.A.A.Madiwale, AGP for respondent-State in respective petition.

CORAM : SIDDHESHWAR S. THOMBARE, J.

DATED : NOVEMBER 18, 2025

ORAL JUDGMENT

(1) Heard. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties forthwith.

(2) In both these petitions, petitioners challenge the order dated 31/07/2019 passed by learned Presiding Officer, School Tribunal,

Amravati in Appeal No.27/2018.

(3) The Writ Petition No.6418/2019 is filed by the management, whereby challenge is raised to the extent of granting reinstatement.

(4) Learned counsel for the petitioners submits that the enquiry conducted against the employee was as per the provisions of Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short 'MEPS Rules') and charges were proved against the employee in the enquiry. After concluding the enquiry punishment was imposed upon the respondent No.3 employee.

(5) Learned counsel for the petitioners further submits that learned Tribunal has recorded its findings on the issue Nos.4 and 5 that charges were proved, particularly the issue No.4, which reads as follows :-

"4. Whether there is compliance of rule 33 and 36 of the Rules?

5. Whether there is compliance of rule 37 of the Rules?"

Therefore, once these two issues have been addressed in affirmative by the learned Tribunal, it shall not have interfered with the dismissal order issued by the management.

(6) He further points out that in para 49 of the order no

findings were recorded by the learned Tribunal and it came to the conclusion of not confirming the order of the dismissal. He further submits that the learned Tribunal has not recorded any findings that it is neither the case of lack of evidence nor a case where the findings of the Enquiry Officer are found perverse. He further points out that once the Tribunal has recorded finding that enquiry was legal, proper and it was concluded by following due process of law, learned Tribunal does not have power under Section 11 of the MEPS Act to convert the order of dismissal into lesser punishment of withholding of one annual increment.

(7) In support of his contention, he relied upon following judgments :-

- 1 *Secretary, Ahilyadevi Holkar vs. Vekatrao* 2024 SCC Online Bom 1130
- 2 *State of UP vs. Sheo Shankar Lal Srivastava* (2006) 3 SCC 276
- 3 *Regional Manager UPSRTC vs. Hotilal* (2003) 3 SCC 605
- 4 *State Bank of India vs. Ramesh Dinkar Punde* (2006) 7 SCC 212
- 5 *Chairman and Managing Director vs. Goparaju* (2008) 5 SCC 569
- 6 *Mahalaxmi Shikshan vs. State of Maharashtra* 1998 (1) Mh.L.J. 826
- 7 *P.M.Ruikar Trust vs. Punjaram* 2016 (2) Mh.L.J. 783
- 8 *High Court vs. Uday Singh Nimbelkar* 1997 (2) Mh.L.J. 578
- 9 *Avinash vs. Navodaya* 1997 (2) SCC 534
- 10 *Lalit Popli vs. Canara Bank* (2003) 3 SCC 583
- 11 *Dnyaneshwar Daigavane vs. Shubham Bahuuddeshiya* 2018 (5) Mh.L.J. 149
- 12 *Suryabhan Avhad vs. Mahendra & Mahendra* 2011 (1) CLR 457
- 13 *Director General of Police vs. R.Janibasha* (1998) 9 SCC 490

- 14 *Tata Infomedia vs. Tata Press Employees Union* 2005(3)Mh.L.J.105
- 15 *General Manager (Operations) SBI vs.R.Periyasamy* (2015) 3 SCC 101
- 16 *Union of India vs. Sardar Bahadur* (1972) 4 SCC 618

(8) Per contra, learned counsel for the respondent employee submits that the charges levelled against the respondent employee do not involve moral turpitude and are not serious in nature. The charges levelled against the employee by the management were discussed in detail by the learned Tribunal and enquiry was held to be proper. Learned Tribunal held that the charges are not serious and do not involve moral turpitude and therefore, it converted the stringent punishment of dismissal into lesser punishment of withholding one year increment, therefore, learned counsel for respondent prayed to dismiss the present writ petition.

(9) As far as the Writ Petition No.6681/2019 is concerned, it is filed by the employee to the extent of not granting back wages and subsistence allowance. Learned counsel for petitioner-employee submits that as the Tribunal has set aside the order of dismissal and reduced the punishment to a lesser one by withholding one increment. He further submits that once the termination order was set aside, the petitioner-employee was entitled to receive back wages.

(10) He further points out that the interim relief of stay of

effect, operation and implementation of the impugned judgment was granted by this Court on 30/09/2019 and the same was effective till the next date i.e. 04/11/2019, thereafter the said interim relief was not continued. The learned Tribunal vide Clause (4) of the operative part of the impugned order had directed the respondent to reinstate the petitioner employee before 09/09/2019. Therefore, excluding the period of stay granted by this Court, the respondent ought to have reinstated the petitioner-employee before 09/09/2019 or after 04/11/2019. Therefore, the petitioner was also entitled to receive the salary for the said period excluding the period of stay. The petitioner has filed the present petition only for getting back wages.

(11) Per contra, learned counsel for the respondent management submits that the enquiry was conducted as per the rules and by exercising powers conferred upon it by Section 4 of the MEPS Act. The Tribunal has passed the order holding that the enquiry was legal and proper, and therefore, petitioner-employee is not entitled to receive full back wages.

(12) Considering the submissions advanced by both the counsels at length. The controversy that arises in these writ petitions is – Whether the Tribunal can exercise power under Section 11 of the MEPS Act to impose lesser punishment if the Tribunal has already held

the enquiry legal and proper. For that it is appropriate to refer to Section 11 of the MEPS Act, which reads as under :-

"11. (1) On receipt of an appeal, where the Tribunal, after giving reasonable opportunity to both parties of being heard, is satisfied that the appeal does not pertain to any of the matters specified in section 9 or is not maintainable by it, or there is no sufficient ground for interfering with the order of the Management it may dismiss the appeal.

(2) Where the Tribunal, after giving reasonable opportunity to both parties of being heard, decides in any appeal that the order of dismissal, removal, otherwise termination of service or reduction in rank was in contravention of any law (including any rules made under this Act), contract or conditions of service for the time being in force or was otherwise illegal or improper, the Tribunal may set aside the order of the Management, partially or wholly, and direct the Management,-

(a) to reinstate the employee on the same post or on a lower post as it may specify;

(b) to restore the employee to the rank which he held before reduction or to any lower rank as it may specify;

(c) to give arrears of emoluments to the employee for such period as it may specify;

(d) to award such lesser punishment as it may specify in lieu of dismissal, removal, otherwise termination of service or reduction in rank, as the case may be;

(e) where it is decided not to reinstate the employee or in any other appropriate case, to give such sum to the employee, not exceeding his emoluments for six months, by way of compensation, regard being had to loss of employment and possibility of getting or not getting suitable employment thereafter. as it may specify; or

(f) to give such other relief to the employee and to observe such other conditions as it may specify, having regard to the circumstances of the case.

(3) It shall be lawful for the Tribunal to recommend to the State Government that any dues directed by it to be paid to the employee, or in case of an order to reinstate the employee any emoluments to be paid to the employee till he is reinstated, may be deducted from the grant due and payable, or that may become due and payable in future, to the Management and be paid to the employee direct.

(4) Any direction issued by the Tribunal under sub-section (2) shall be communicated to both parties in writing and shall be complied by the Management within the period specified in the

direction, which shall not be less than thirty days from the date of its receipt by the Management.”

(13) Further it is appropriate to refer to Rule 29 which deals with the penalty, which reads as under :-

“29. Penalties.- Without prejudice to the provisions of these rules, any employee guilty of misconduct, moral turpitude, willful and persistent neglect of duty and incompetence, as specified in rule 28, shall be liable for any of the following penalties, namely :

(1) warning, reprimand or censure.

(2) withholding of an increment for a period not exceeding one year.

(3) recovery from pay or from some other amount as may be due to him of the whole or part of any pecuniary loss caused to the Institution by negligence or breach of orders.

(4) reduction in rank.

(5) termination of service :

Provided that, an employee of a private school aggrieved with decision of imposing a minor penalty as specified in clause (1) of rule 31 may prefer an appeal to the Deputy Director of the region concerned within 45 days from the date of receipt of the order of punishment.”

(14) Rule 31 deals with classification of penalties which reads as under :-

31. Classification of penalties.- The penalties shall be classified into minor and major penalties as under :

(1) minor penalties :

(i) reprimand,

(ii) warning,

(iii) censure,

(iv) withholding of an increment for a period not exceeding one year,

(v) recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Institution by negligence or breach of orders.

(2) major penalties :

(i) reduction in rank,

(ii) termination of service.

Therefore, the punishment awarded by the learned Tribunal comes in the category of minor penalty as per Rule 31(1)(iv).

(15) Considering the language used in Section 11(2) of the aforesaid Act, it clearly reveals that the Tribunal is empowered to set aside the termination order which was found to be illegal or improper and more particularly, Section 11(2)(d) provides that the Tribunal has power to award such lesser punishment as it may specify in lieu of dismissal, removal, otherwise termination of service or reduction in rank, as the case may be. As well as Section 11 (2)(f) provides that the Tribunal has power to give such other relief to the employee and to observe such other conditions as it may specify, having regard to the circumstances of the case. Therefore, the Tribunal has power under Section 11(2)(d) to pass an appropriate order awarding lesser punishment even if the enquiry was held to be legal and proper. In this case, though the enquiry conducted was held to be legal and proper as per the procedure of MEPS Rules, 1981, it does not mean that the learned Tribunal does not have power to pass a lesser punishment by converting the order of dismissal into withholding one increment. Considering the provision of Section 11, I am of the opinion that learned Tribunal has power to impose lesser punishment even though

the enquiry was held to be legal and proper.

(16) On perusal of Rule 29 (2) it reflects that without prejudice to the provisions of these rules, any employee found guilty of misconduct, moral turpitude, wilful and persistent neglect of duty, may be awarded punishment of withholding of one increment for a period not exceeding one year.

(17) Rules 31 classifies the penalty as minor one and Section 11 empowers the learned Tribunal to impose lesser punishment by withholding an increment for a period not exceeding one year. Even though the charges levelled against the employee are proved, the learned Tribunal has rightly awarded lesser punishment, as the charges did not involve moral turpitude and were not serious. The learned Tribunal has rightly exercised the powers conferred upon it by Section 11(2) of the MEPS Act. Therefore, I do not find any reason to interfere with the order passed by learned Tribunal. Hence, the Writ Petition No.6418/2019 is liable to be dismissed.

(18) As far as the Writ Petition No.6681/2019 is concerned, the petitioner though prayed that he is entitled to receive back wages from the date of dismissal till the order of reinstatement. I have gone through the appeal memo which was filed before the Tribunal. In the pleadings the petitioner employee had not stated that he was not

gainfully employed during that period. Even there are no averments made in the pleadings that he is entitled for getting back wages. Once there are no averments made to that effect, the petitioner is not entitled to receive back wages.

(19) As Tribunal holds that the enquiry was legal and proper, but by virtue of Section 11 of the Act lesser punishment was imposed and on that count back wages were denied to the petitioner. Therefore, I do not find any reason to interfere with the order, resultantly, the Writ Petition No.6681/2019 is also liable to be dismissed. Hence, I proceed to pass following order :-

ORDER

1. The Writ Petition Nos.6418/2019 and 6681/2019 are dismissed.
 2. No order as to costs.
- Rule is discharged.

(SIDDHESHWAR S. THOMBRE)

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