



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

**WRIT PETITION NO.11/2025**

1. Sant Sadaram Maharaj Shikshan  
Sanstha, Kaudanyapur, Tq. Tiosa,  
District - Amravati, through its President.
2. Sheshraoji Chindhuji Satre,  
Aged about 83 years, Occu. President,  
Sant Sadaram Shikshan Sanstha,  
R/o Koudinyapur, Tq. Tiosa,  
Dist. Amravati.
3. Ashok Pundlikrao Isal,  
Aged 63 years, Occu.Vice President,  
Sant Sadaram Shikshan Sanstha,  
R/o Koudinyapur, Tq. Tiosa, Dist. Amravati.
4. Smt. Nalini Sheshraji Satre,  
Aged 81 years, Occu. Secretary,  
Sant Sadaram Shikshan Mandal,  
R/o Koudinyapur, Iq. Tiwasa,  
Dist. Amravati.

**.....PETITIONERS**

**...V E R S U S...**

1. Vinayak Ambadas Kadu,  
Aged about 59 years, Occu. Service,  
R/o Koudinyapur, Tq. Tiosa,  
Dist. Amravati.
2. Education Officer (Secondary),  
Zilla Parishad, Amravati.

**...RESPONDENTS**

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Mr. M. G. Bhangde, Senior Advocate assisted by Mr. A. G. Baheti,  
Advocate for petitioner.

Mr. Anand Parchure, Advocate for respondent No.1.

Mr. K. R. Lule, A.G.P. for respondent No.2.  
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**CORAM :-ANIL L. PANSARE, J.**

**DATED :- 06.02.2025**

**ORAL JUDGMENT**

Issue Rule returnable forthwith. Mr. Anand Parchure learned counsel for respondent No.1 and Mr. K. R. Lule, learned A.G.P. for State, waive service of notice of Rule on behalf of the respondents. With consent of learned counsel for the parties, the petition is taken up for final hearing.

2. Petitioner – Society is aggrieved by order dated 05.07.2024 passed by School Tribunal, Amravati granting liberty to respondent No.1 to file criminal complaint under Section 13 (1) (a) of the Maharashtra Employees of Private Schools (Conditions of Service Regulation), Act, 1977 (hereinafter referred to as the ‘Act of 1977’), against the petitioners before the appropriate Court with further liberty to file execution proceedings before the Civil Court for execution of the judgment dated 31.08.2019 passed by the School Tribunal in Appeal No.15/2014. Respondent No.2 – Education Officer has, vide communications dated 18.09.2024 and 26.09.2024 , taking aid of the impugned order, withheld the grants payable to the petitioners.

3. Having heard both the sides and having gone through the materials placed before me, it appears that vide judgment dated 31.08.2019, passed by School Tribunal in Appeal No.15/2014, respondent No.1’s appeal was partly allowed. Order of termination of

his service dated 05.12.2011 was quashed and set aside with the direction to the petitioner to reinstate him on his former post within 40 days from the date of order and to pay 40% back wages with effect from 05.12.2011 till the date of order. The School Tribunal directed the petitioner – Society to pay back within three months and on failure, directions were issued to respondent No. 3 to deduct the amount of salary from the grants due and payable to the petitioner.

4. It appears that this judgment was not complied with and, therefore, respondent No.1 filed Misc. Application No. 8/2023 under Section 13 of the Act of 1977 for imposing penalty against the petitioner, in following terms:

- i. Impose the penalty against the non-applicants for non-compliance of the Judgment dated 31.08.2019 passed by this Hon'ble Tribunal in Appeal No. 15/2014 by imposing the penalty as permissible under section 13 of the M.E.P.S. Act in the interest of justice.*
- ii. Direct the non-applicants to purge the punishment by depositing the backwages as directed by this Hon'ble Tribunal vide Judgment dated 31.08.2019 in Appeal No. 15/2014.*
- iii. Grant any other relief which deem fit suitable in favour of applicants and against Non-applicants in the interest of justice.*

5. As could be seen, the application was filed for imposing penalty under Section 13 of the Act of 1977. As such, the School Tribunal took a categorical view that the application under Section 13 of the Act of 1977, to convict the petitioner was not maintainable and accordingly thought it proper to grant liberty to approach the

appropriate Court. The Tribunal, however, proceeded to examine the issue of execution of judgment as well and granted liberty to respondent No.1 to file execution proceeding before the Civil Court on the ground that the School Tribunal has no effective machinery for execution of the decree for recovery of back wages.

6. Mr. M. G. Bhangde, learned Senior Counsel for petitioners, has rightly argued that since the application was filed for punishment under Section 13, the School Tribunal had no jurisdiction to entertain the same and ought to have dismissed application as not maintainable. The comments on execution of judgment were uncalled for.

7. As against, Mr. Parchure, the counsel for the respondent No.1, by relying upon the judgment passed by the Coordinate Bench of this Court in the case of **Tanveer Mohammadi Ibrabhi Farooq Vs. Education Officer (Primary) Zilla Parishad & Ors.; [2002 SCC OnLine Bom 415]**, made an attempt to justify the order. Relevant portion of the judgment reads thus:

*“7. In (Mohammad Salam Anamul Haque v. S.A. Azmi) reported in 2001 (Supp. 2) Bom. C.R. 37 : 2000 (II) C.L.R. 287, this Court has taken a view that for breach of an order of the School Tribunal, direct contempt petition in the High Court cannot be filed but School Tribunal is empowered to execute the order. It was further held that the order of the School Tribunal is like an execution of a decree passed in his favour under Order 21, Rule 10 of Code of Civil Procedure. The learned Counsel for the respondents 3 and 4 relying upon another judgment of this Court*

*rendered in (V.S. Deshmukh v. S.A. Ghode), reported in 2001 (1) Mh. L.J. 261 contended that School Tribunal has no jurisdiction of imposing a penalty which can be imposed only by a competent Court of criminal jurisdiction. In the said judgment a Single Judge has taken the view that the forum of filing of complaint under section 13 of the M.E.P.S. Act, is a Criminal Court of competent jurisdiction. At the first blush there may appear to be conflict between views taken in the aforesaid judgments. After careful analysis, I am of the opinion that there is no conflict between the two judgments; under section 13, aggrieved teacher has two remedies (1) he can file a criminal complaint for punishment and (2) he can file a execution petition. If he prays for punishment, then he has to go to the Criminal Court, but if he wants to simply execute the order then as held in the case of Mohd. Salam Anamal Haque (supra) he can file the execution petition before the School Tribunal. Directing the person to pay a penalty is one of the methods of execution. For example when in execution of a money decree, Civil Court orders detention of a judgment debtor in a civil prison, the Court is not inflicting a punishment but is executing a decree. Viewed thus, the order of payment of Rs. 5000/- made by the School Tribunal can be construed as an order in execution of its previous order.”*

8. Thus, the Court has taken a view that under Section 13 of the Act of 1977, aggrieved teachers have two remedies. First, he can file a criminal complaint for punishment and second, he can file execution petition. If he prays for punishment then he has to go to Criminal Court and if he wants to simply execute the order then he can file the execution petition before the School Tribunal.

9. Respondent No.1 herein chose to file criminal complaint under Section 13 of the Act of 1977 and, therefore, he ought to have approached the Criminal Court. In fact, the School Tribunal was also of

the same view. However, instead of rejecting the complaint as not maintainable it continued to delve upon the aspect of execution.

10. In fact, respondent No.1 was also aware that application under Section 13 was not maintainable and, therefore, has sought permission before the School Tribunal to withdraw the complaint, with liberty to approach the Criminal Court, if the Tribunal takes a view that it is not tenable.

11. That being so, the School Tribunal ought to have either permitted respondent No.1 to withdraw the complaint and to approach the Criminal Court or to dismiss the complaint as not maintainable. The Tribunal did neither, in the sense, it did not permit respondent No.1 to withdraw the complaint nor did it dismiss the same. The Tribunal has simply disposed of the complaint by granting liberty to respondent No.1 to approach the concerned Judicial Magistrate First Class and also to file execution proceedings that too before the Civil Court and not before the School Tribunal.

12. The liberty granted by the School Tribunal to respondent No.1 to approach the Civil Court directly for execution of the judgment appears to be contrary to the law laid down in *Tanveer's* case supra. What has been held by Coordinate Bench is that the aggrieved teacher has two remedies; one is to file criminal complaint for punishment

before the Criminal Court and another is to file execution petition before the School Tribunal. Thus, execution petition, if any, will have to be filed before the School Tribunal. Once execution petition is so filed, the School Tribunal could have proceeded to take appropriate steps; in accordance with law including taking assistance of Civil Court for execution of the judgment/decreed. Having not done so, the order impugned will not stand the scrutiny of law.

13. Further, the communications dated 18.09.2024 and 26.09.2024, issued by respondent No.2 are also liable to be quashed and set aside, the reason being they were made in consequence to the impugned order. As such, Mr. Parchure, learned counsel for the respondent No.1, argued that these communications were issued in terms of judgment dated 31.08.2019, however, there is a reference to the impugned order as well. Further, no explanation is coming forth why communication was made only after passing impugned order and not immediately after passing judgment/decreed. Thus, there are reasons to believe that these communications were issued subsequent to the impugned order.

14. Mr. Parchure, learned counsel for respondent No.1, contends that these communications would be subject matter of Division Bench. I do not agree. Mr. Bhangde, learned Senior Counsel for petitioners, has rightly argued that these communications being

consequential to the impugned order cannot be acted upon once the impugned order is set aside.

15. The writ petition is accordingly allowed. Impugned judgment and order dated 05.07.2024 passed by School Tribunal, Amravati in Misc. Application No. 8/2023, as also communications dated 18.09.2024 and 26.09.2024 issued by respondent No.2 are quashed and set aside. Respondent No.2 may, however, proceed to take appropriate action, in terms of judgment dated 31.08.2019 passed by the School Tribunal.

Needless to mention that respondent No.1 may take recourse to the remedies as are available under the law.

Rule is disposed of in the above terms. No order as to costs.

**(Anil L. Pansare, J.)**

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