



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

CIVIL APPLICATION (W) NO. 335 OF 2025

IN
WRIT PETITION NO. 6996 OF 2024

(Navjeevan Shikshan Sanstha, Ramtek and another vs. State of Maharashtra and another)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of the directions
and Registrar's orders.*

Court's or Judge's order

Mr. D.A. Mohgaonkar, Advocate for the petitioners.
Mr. P.P.Pendke, Assistant Government Pleader for respondent Nos.
1 and 2.
Mr. S.G.Zinzarde, Advocate for intervenor.

CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, J.

DATE . : MARCH 03, 2025

1) The applicant/intervenor has moved this application to permit him to intervene in the petition as respondent on the ground that his name is included in Schedule I of the Change Report.

2) On the other hand, learned counsel for the petitioner drew our attention to the order dated 17/08/2015, pointed out para 14, and submitted that the application filed by the intervenor to restrain petitioner No.2 from taking interviews and appointing teaching staff was rejected. The said order was challenged, but it was subsequently withdrawn.

Similarly, he drew our attention to the order dated 08/07/2022 and relevant para 67 and submitted that 'the person who is not authorised (i.e., the intervenor herein) had terminated the services of the appellant (i.e. petitioner No.2 herein). Accordingly, the Appeal preferred by the petitioner No.2

was allowed. Consequently, the order of termination issued by him was set aside in the absence of the authority. The said order has also not been challenged by the applicant/intervenor.

3) In view of the above, we do not find substance in the contention of learned counsel for the applicant/intervenor. Based on the Change Report, his name is included in schedule I, so he is a necessary party to the petition. Thus, the application, devoid of merit, stands rejected.

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

2) Learned counsel for the petitioner submitted that in view of sub Rule (2) and (3) of Rule 17 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short- the '*MEPS Act*').), the petitioner No.1 Education Society is empowered to appoint petitioner No.2 – Ashok Satpute on the post of '*Headmaster*' till the end of the First Academic Session.

3) He further canvassed that the present petition is covered by the decisions in ***Writ Petition No.5224/2024 (Gorakh s/o Shankarrao Bhagat vs. State of Maharashtra and others)*** decided on 26/03/2015, in the case of ***Ashok Ram Parhad and others vs. State of Maharashtra and others*** reported in **(2023) SCC OnLine SC 265**, which was also followed in ***Lok Shikshan Mandal and another vs. State of Maharashtra and others*** in ***Writ Petition No.1686/2024, decided on 09/07/2024***, so also, the facts of the present case are identical with the facts of above

referred judgments and urged for allowing the petition in terms of the above decisions.

4) In response, the learned Assistant Government Pleader has not disputed the said proposition of law laid down in the said judgments, as well as the facts in the present case and the decisions cited above are similar.

5) It reveals that petitioner No.2 is superannuated on 30/09/2024, i.e. in the middle of the First Academic Session; therefore, in our view, as per Rule 17(2) of Rules, 1981, he could have been re-employed till the end of the First Academic Session only.

6) Having considered the submissions of learned counsel for the petitioners and learned Assistant Government Pleader, so also considering the Rules 17(2) and (3) of the MEPS Rules, 1981, in our opinion the petitioner No.1 is empowered to re-employ the petitioner No.2 till the end of First Academic Session is over.

7) Thus, in our view, the present case is covered by the law laid down in **Gorakh Bhagat's** case. Besides, as per the law laid down in the case of **Ashok Parhad**, a Government Resolution cannot override the statutory rules, and therefore, the passing of an order impugned based on the Government Resolution dated 09/11/1995 appears contrary to the settled position of law in this case.

8) Considering the discussion above, we deem it appropriate to allow the petition. As such, the petition stands allowed.

9) The impugned order dated 07/10/2024 passed by respondent No.2 – Education Officer (Secondary), Z.P. Nagpur, is hereby quashed and set aside.

10) The respondent No.2 Education Officer is directed to grant approval for petitioner No. 2's re-employment only until the end of the First Academic Session of 2023-2024.

11) Needless to clarify, petitioner no. 2 is not entitled to continue his employment for the Second Academic Session.

12) Petitioner No.1 is directed to send the pay bill of the petitioner No.2, if any, for the extended period as per Sub-Rules (2) and (3) of Rule 17 of the MEPS Rules, 1981 for disbursing his salary for the said re-employment.

13) Rule is made absolute in the above terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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