



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

Writ Petition No.6572/2025

Arya Vidya Sabha and another V Geeta and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C.S. Dharmadhikari, Advocate for petitioners.
Mr. A.S. Deshpande, Advocate for respondent no.1/Caveator.
Mr. Narale, AGP for respondent no.2.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 18-12-2025.

Heard learned Counsel for the petitioners.

2. The petitioner-Management has filed the instant petition challenging the interim order dated 13-10-2025 passed by the School Tribunal on an application for stay in Appeal bearing (STN) No.13/2025, by which the application for stay is allowed and the effect and operation of the termination order dated 17-08-2025 is directed to be stayed during the pendency of the appeal and it is directed that the appellant/employee be continued on the post of Headmaster on 50% of entitled pay for the said post till the final disposal of the appeal.

3. Learned Counsel for the petitioner Management submits that the respondent employee was terminated after conducting an enquiry in accordance with the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, the MEPS Rules').

4. Learned Counsel for the petitioners primarily submitted that the impugned order granting stay is passed by the Tribunal by wrongly considering the authoritative pronouncement of the Hon'ble Supreme Court of India in the matter of Jai Bhavani Shikshan Prasarak Mandal vs

Ramesh and others, reported in **(2022) 13 SCC 148**. He submits that the Hon'ble Supreme Court of India has laid down the position of law with reference to provisions of Rule 36 of the MEPS Rules and has specifically held that the interpretation given by the Full Bench of the High Court of Bombay in the matter of **National Education Society vs Mahendra**, reported in **(2007) 3 Mh.L.J. 707** may not be correct. He submitted that in view of the position of law clarified by the Hon'ble Supreme Court of India, the impugned order primarily based on the judgment of the Full Bench in the matter of **National Education Society** (supra) is not sustainable in law.

5. As far as the legal position laid down by the Hon'ble Supreme Court of India in the matter of **Jai Bhavani Shikshan Prasarak Mandal** (supra), learned Counsel for the respondent employee does not dispute the position.

6. The other reason putforth by the Tribunal while granting the stay is the financial hardship. In this regard, learned Counsel for the petitioner submits that the petitioner has no grievance about payment of 50% of the entitled pay to the employee during the pendency of decision on stay application. However, submits that the termination was effected on the basis of a departmental enquiry and the Management is entitled to putforth all the submissions on merits regarding her entitlement.

7. Having regard to the fact that the impugned order is passed by the Tribunal by wrongly considering the position of law as laid down by the Hon'ble Supreme Court of India in the matter of **Jai Bhavani Shikshan Prasarak Mandal** (supra), it is in the interest of justice to remand the

matter to the Tribunal for reconsideration of the application for stay in the light of the position of law as laid down by the Hon'ble Supreme Court of India.

8. In view of this, order dated 13-10-2025 passed by the School Tribunal on the application for stay is quashed and set aside. The matter is remitted to the School Tribunal for deciding the application for stay afresh within a period of one month from the date of uploading of this order.

9. It is directed that till the decision of the application for stay, the Management shall continue to pay the amount of 50% of the entitled payment as was directed by the Tribunal by order dated 13-10-2025.

10. In view of this, writ petition is disposed of. No order as to costs.

(Prafulla S. Khubalkar, J.)