



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

WRIT PETITION NO. 8041 of 2018

Krishnakumar Ramlal Harinkhede and 7 others

vs.

Shri Samarth New Education Society, Gondia, and others.

Mr. A. Z. Jibhkate, Advocate for petitioners.

Mr. Sourabh Rajurkar, Advocate h/f Mr. Anand Parchure, Advocate for respondent no.3.

CORAM :- NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 3rd JANUARY, 2025

P. C.

Heard.

2. Though served none appears for the respondent nos. 1 and 2.

3. Post enquiry conducted by the respondent no.3-Board in the matter of mass copying, report was submitted recommending disciplinary action against the petitioners-employees who were responsible for such act. The petitioners are saddled with the punishment of stoppage of two increments with permanent effect. They are the employees of the respondent no.1 working with the respondent no.2-School where mass copying was noticed by the respondent no.3-Board.

4. From the record, it can be noticed that the petitioners were subjected to enquiry by the Disciplinary Authority i.e. respondent nos. 1 and 2. No doubt, the respondent -Management has every authority to impose minor punishment without conducting disciplinary proceedings.

Under Rules 29 and 31 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981(for short, 'the MEPS Rules), stoppage of two increments with permanent effect amounts to major penalty/punishment which must proceed after conducting a disciplinary proceedings.

5. Since, the respondent-Management without conducting any departmental enquiry has proceeded to impose a major penalty/punishment, the order imposing major penalty/punishment goes contrary to the aforesaid statutory provisions.

6. Having regard to the settled position of law that in case if the Management/Disciplinary Authority had intended to impose major penalty, it ought to have conducted the departmental proceedings against the petitioners before imposing punishment of stoppage of two increments with permanent effect, which they have failed to do in this case. As such the order imposing penalty/punishment cannot be said to be sustainable in law as the petitioners were not given an opportunity as prescribed under the MEPS Rules.

7. That being so, the orders impugned in this petition are hereby quashed and set aside.

8. We leave it to the discretion of the Management, if so desired, it may conduct a fresh proceedings against the petitioners if it intends to saddle/impose major penalty on the petitioners or else it is open for them to impose minor punishment in accordance with law.

9. The writ petition stands allowed in above terms. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.