



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO.7063/2024

Ramesh Devising Rathod,
Aged 46 years, Occupation- nil,
R/o C/o Shri Balu Gangadhar Jadhao,
Naiknagar, Gadchandur, Tah- Korpana,
Dist- Chandrapur.

... PETITIONER

...VERSUS...

1. Shri. Lalbahadur Shastri Shikshan
Prasarak Mandal, Naiknagar,
Gadchandur, Tah- Korpana, Dist-
Chandrapur, through its Secretary.
2. Priyadarshini Indira Gandhi Prathamik
School, Bharkunda (Khurd), Tah- Dist-
Chandrapur, through its Headmaster.
3. Special District Social Welfare
Officer, Chandrapur, Dist- Chandrapur.

...RESPONDENTS

Shir P.N. Shende, Advocate for petitioner
Ms Kirti Satpute, Advocate for respondent Nos.1 and 2
Ms Deepa Charlewar, AGP for respondent No.3/State

CORAM : SMT. M. S. JAWALKAR, J.

DATED : 26.03.2025

ORAL JUDGMENT

. Heard learned Counsel for both the parties. It appears that present petition is filed challenging the order below Exhibit 16. The petitioner herein moved an application before the learned School Tribunal for recasting of issues. According to the petitioner, he has served for 10 years and he was terminated from service after full fledged inquiry. According to the petitioner, in view of above facts, there cannot be any issue as to whether his appointment is in accordance with Section 5(2) of the MEPS Act.

2. In reply of the said application, Management contended that the appointment of petitioner is not in accordance with law. He was appointed as temporary teacher, as he was not having requisite qualification to be appointed as permanent teacher.

3. My attention is drawn by the learned Counsel for respondent to the order passed by the Social Welfare Officer dated 16.11.2004 by which, the Social Welfare Officer come to the conclusion that being untrained teacher, the petitioner could not be

appointed as permanent teacher. It is also not necessary to conduct departmental inquiry against the petitioner. However, in view of principles of natural justice, the Management was directed to conduct the inquiry and, therefore, inquiry was conducted. *Prima facie*, inquiry was not conducted, considering the petitioner as permanent employee.

4. Learned School Tribunal come to the conclusion in view thereof, it is necessary to decide whether appointment of the petitioner was made as per Section 5 of the MEPS Act and Rules. The learned School Tribunal also relied on the judgment in ***Sadhana Jadhav Vs. Pratibha Patil Mahila Mandal*** reported in **2013 (2) Mh.L.J. 484**, wherein it is held that the practice of the Tribunal of framing preliminary issues and deciding appeal on that basis is deprecated. It is further held that the Tribunal is to frame all issues on the basis of pleadings of the parties and must decide them all together without deciding any of them as preliminary.

5. In view of this judgment, application for recasting the issues came to be rejected. However, it appears that all the issues

are kept open to be argued after evidence is recorded. As such, there is no prejudice going to cause to petitioner. There is no merit in the petition and petition stands dismissed.

7. The Writ Petition stands disposed of in above terms. No orders as to costs.

R.S. Sahare

(SMT. M.S. JAWALKAR, J.)