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

**WRIT PETITION NO. 2577 OF 2006**

THE PRESIDENT, ADIVASI EDUCATION SOCIETY,
*VERSUS*
PRAVIN SHANKARRAO THORAT AND ANR

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Advocate for the Petitioner : Senior Counsel Mr. V. D. Hon i/b Mr. R. S. Shinde
AGP for Respondents-State : Mr. P. D. Patil
Advocate for Respondent No. 1 : Senior Counsel Mr. Sanjeev Deshpande i/b Mr. Anudeep D. Sonar

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**WITH**
**WRIT PETITION NO. 328 OF 2002**

PRAVIN SHANKARRAO THORAT
*VERSUS*
ADIVASI EDUCATION SOCIETY KARANJI AND ORS

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Advocate for the Petitioner : Mr. Senior Counsel Mr. Sanjeev Deshpande i/b Mr. Anudeep D. Sonar

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**CORAM : SACHIN S. DESHMUKH, J.**

**Date : 28th October, 2026**

**JUDGMENT :-**

1. By way of Writ Petition No. 2577 of 2006, the Petitioner management has questioned the judgment and order dated 13.01.2006 rendered by the Presiding Officer, School Tribunal, Nashik Region, Nashik in Appeal No. DHL/31/99, allowing the appeal presented by the respondent No. 1 directing the

management for reinstatement in service as an Assistant Teacher with full backwages and benefits.

2. Whereas, by way of Writ Petition No. 328 of 2002, the petitioner / employee has challenged the judgment and order dated 12.10.2000 rendered by the Presiding Officer, School Tribunal, Nashik in Appeal No. DHL-50 of 1997 dismissing the employee's appeal challenging the supersession to the post of Head Teacher.

3. The petitioner / employee possessing B.Com. and B.P.Ed. qualifications, was initially appointed by the management in the school Madhyamik Vidyalaya at Karanji in the year 1990. While the employee contends appointment as the Head Master against a substantive post on 11.06.1990, the management contends that the employee was working as an Assistant Teacher. Confrontation between the litigating sides started in the year 1994 regarding administrative indiscipline involving clerk, who happened to be the son of the society's President.

4. According to the employee, was coerced into submitting a resignation from the post of Head Master on 15.11.1994, however, continued to express willingness to work as an Assistant

Teacher based on subsequent assurances from the President. The services of employee were orally terminated by the management on 17.06.1996. The employee challenged the termination in Appeal No. DHL-35 of 1996 before the School Tribunal, allowed the appeal on 06.03.1997 and directed the reinstatement as an Assistant Teacher.

5. Following the reinstatement, the relations between the management and the employee remained strained. The employee contends that the management started harassment ignoring seniority and promoting a junior teacher to the post of Head Master. This prompted the employee to present Appeal No. DHL-50 of 1997 before the School Tribunal on 22.12.1997 asserting supersession and reduction in rank. The School Tribunal dismissed the appeal on 12.10.2000. The said order is the subject matter of Writ Petition No. 328 of 2002.

6. In the interregnum, the management initiated disciplinary inquiry against the employee with an assertion of negligence, insubordination and misconduct. The management issued a notice on 13.04.1998 withholding the increment. The same was set aside by the Deputy Director of Education on

27.07.1998 that led to the presenting a civil suit by the management. Thereafter, on 20.04.1999, the management issued a show-cause notice with an allegations of misconduct, culminating in the constitution of a two-member inquiry committee.

7. The inquiry committee conducted an inquiry after the employee failed to appoint a nominee or participate in the proceedings, concluding that all the charges of misconduct were proved. Following the recommendations of the inquiry committee, the management passed a resolution and dismissed the employee with effect from 11.10.1999. The employee challenged the dismissal in Appeal No. DHL/31/99, which was eventually allowed by the School Tribunal on 13.01.2006. The said order of reinstatement and backwages has been challenged by the Management Writ Petition No. 2577 of 2006.

8. Mr. Hon, the learned Senior Counsel for the management submitted that the judgment of the School Tribunal is perverse and unsustainable in law. The misconduct of the employee disrupted the educational atmosphere of the school, threatened office bearers and remained negligent in the teaching duties. The Management followed the statutory procedure under

Rules 36 and 37 of the Maharashtra Employees of Private Schools Rules, 1981, by issuing a statement of allegations on 20.04.1999 and subsequently a charge-sheet on 29.06.1999.

9. The learned Senior Counsel further submitted that the employee was extended opportunities in the departmental inquiry to present the defence and contest. Instead of contesting the same, the employee chose to delay the proceedings by approaching civil courts, remaining absent from meetings citing medical grounds. The delinquent employee voluntarily choses not to appear in the inquiry cannot later claim a contravention of the principles of natural justice. The Tribunal erred while setting aside dismissal premised on technical grounds in absence of framing necessary issue.

10. The learned Senior Counsel further submitted that even if the School Tribunal having noted procedural defects or a violation of the principles of natural justice, it was obligated to re-direct the inquiry from the stage where the defect occurred. Instead of setting aside the termination order, the Tribunal should have directed the Management to conduct a de novo inquiry. In support of this contention, reliance is placed on the judgment in the case of

**Bal Shaikshanik Sanstha, Sangamner v. Punamchand [2002 (4) Mh.L.J. 484].**

11. In relation to the employee's claim of promotion, the learned Senior Counsel supported the Tribunal's order dated 12.10.2000 submitting that the employee had voluntarily resigned from the post of Head Master on 15.11.1994. The challenge to the alleged supersession, presented on 22.12.1997, suffered by delay and laches. The learned Senior counsel submitted that the employee had accepted the status as an Assistant Teacher through subsequent filings and actions, and therefore, the attempt to claim the post of Head Master was rightly dismissed by the School Tribunal.

12. Per contra, Mr. Deshpande, the learned Senior counsel for the employee submitted that the employee was the senior-most trained teacher, initially appointed as Head Master on 11.06.1990. The employee was subjected to harassment with a forced resignation on 15.11.1994, since the employee attempted to discipline a clerk who was the son of the society's President. The management's malicious intent is evident from the fact that the Management repeatedly terminated the services or withheld

increments, every action of management against employee was struck down by the School Tribunal and the Deputy Director of Education.

13. The learned Senior Counsel for employee further submitted that the inquiry committee constituted by the management was a biased from its inception. The convener of the committee carried a personal grudge and had previously presented a police complaint against the employee. The inquiry conducted by such member can never be fair. Furthermore, the committee concluded the proceedings ex-parte, recording the evidence of 12 witnesses in a given single day on 19.08.1999 when the employee had submitted a medical certificate. The committee also refused to provide the employee with copies of the depositions and audio recordings to enable the employee to offer defence.

14. The learned Senior Counsel for the employee further submitted that directing a de novo inquiry at this stage would serve no fruitful purpose, since the employee has already attained the age of superannuation. The post-retirement inquiries under the MEPS Rules are impermissible, particularly where the Management has acted with clear malice and an obsession to somehow remove the employee under one pretext or another.

15. In relation to the issue of promotion, the learned Senior Counsel submitted that the School Tribunal adopted technical approach while dismissing Appeal No. DHL-50 of 1997 on the grounds of limitation. The law is well-settled that the act of suppression in contentious cause, an such it can't be regarded as delayed. The learned Senior counsel concluded that the dismissal order dated 12.10.2000 deserves to be quashed and the reinstatement order dated 13.01.2006 should be upheld with full backwages.

16. In order to support the contentions, Mr. Deshpande, the learned Senior Counsel relied upon following judgments :-

(a) **Rattan Lal Sharma Vs. Managing Committee, Dr. Hari Ram (Co-education) Higher Secondary School [1993 AIR (SC) 2155]**

(b) **Abdul Shakil Shakil Ahamad Vs. Husanmiyan Education Society, Nagpur and Ors. [2023(2) Mh. L. J. 301]**

(c) **Shri. Gurukul Shikshan Prasarak Mandal and Ors. Vs. Sharda Ashok Suryagandh and Ors. delivered by this Court in Writ Petition No. 1999 and 2392 of 2011** on 19.12.2019

17. Having considered the rival submissions of the litigating sides and perusal of the material on record, the issues center on :

(i) whether the School Tribunal was justified in setting aside the employee's termination ? and (ii) whether the School Tribunal was justified in dismissing the employee's promotional challenge on the grounds of delay ?

18. The management challenges to the School Tribunal's order setting aside the employee's termination dated 06.10.1999. The Tribunal found that the inquiry committee failed to adhere to the statutory procedure under Rules 36 and 37 of the Maharashtra Employees of Private Schools Rules, 1981, thereby violating the fundamental principles of natural justice.

19. Rule 37 of the MEPS Rules, 1981, mandates that an inquiry committee must extend opportunity to the employee to defend the case. On 19.08.1999, when the employee remained absent and submitted a medical certificate explaining illness, the committee chose to proceed through the proceedings. It recorded the oral depositions of 12 distinct management witnesses and accepted evidence all on given single day, the same resulted into the denying employee statutory right of cross-examination.

20. The records indicates that the Convener of the inquiry committee refused to supply the employee with copies of the

witness depositions or audio files when requested to prepare cross-examination. Instead, informed that copies would be provided after the inquiry was concluded. Demanding that an employee cross-examine 12 witnesses or lead defence without access to the recorded statements is a violation of principles of natural justice.

21. Smt. Chandrawati Vasave, acting as the management's nominee and convener, had previously presented a criminal complaint against the employee at the police station. Even if presented on behalf of the management, the adversarial relationship created an apprehension of bias in the mind of the delinquent employee. The School Tribunal, therefore, rightly held that an inquiry by an interested or hostile convener invalidates the findings.

22. The submission put forth on behalf of the Management that upon finding procedural non-compliance, the School Tribunal ought to have permitted a de novo departmental inquiry from the stage the defect occurred. While a Court or Tribunal may ordinarily permit a fresh inquiry to cure technical defects, the facts and circumstances of the present case do not warrant such a course. The record reveals a pattern of persistent bias and hostile actions

by the Management against the employee. The sequence of events, commencing from the initial oral termination, followed by a punitive withholding of increments that was subsequently undone by the Deputy Director of Education and culminating in the Management filing a civil suit and subsequent civil appeal against order of Deputy Director demonstrates a malicious intent to ensure the employee's removal.

23. As held by a Co-ordinate Bench of this Court in the case of **President, Rajashri Shahu Maharaj Shikshan Sanstha v. Omkar [2024 (2) Mh.L.J. 418]**, a de novo inquiry cannot be claimed as a matter of right in every case, especially where the facts reveal that the employer acted maliciously to target an employee.

24. During the pendency of this litigation, the employee has attained the age of superannuation. The law is well-settled by the Hon'ble Supreme Court in the case of **State of Punjab v. Harbhajan Singh [1996 (9) SCC 222]** that once an employee superannuates, no useful purpose is served by directing a de novo inquiry. This Court in **Bhagwan Damaji Dongre v. State of Maharashtra [2016 (6) All MR 748]** and **Pralhad Motiram**

**Attarde v. State of Maharashtra [Writ Petition No. 4443 of 2008,** decided on 31.08.2018] has held that a departmental inquiry under the MEPS Rules cannot proceed or be permitted post-retirement. Compelling a retired employee to undergo the trials and tribulations of a fresh domestic tribunal at this late stage would constitute an abuse of legal process. Consequently, the Management's prayer for a de novo inquiry cannot be countenanced and stands rejected.

25. Furthermore, the Management chose to serve a charge-sheet comprising allegations relating to a previous academic year. Under Rule 15 of the MEPS Rules, 1981, the Management is under a statutory obligation to maintain confidential reports. When confronted with the same, the learned Senior Counsel for the Management fairly conceded that no such reports were maintained. In the absence of any adverse confidential entries recorded in the service book, a presumption arises that the teacher's service was unblemished and satisfactory. The Management cannot be permitted to bypass statutory omission under Rule 15 while citing past incidents forming part of charge-sheet at belated stage.

26. When the statutory rules cast an obligation upon the

management to write confidential reports in the prescribed forms under Schedule "G", such rules must be adhered to and reviewed accordingly. There is a further statutory obligation to communicate any adverse remarks in the confidential report to the concerned employee by the end of August of every academic year and any representation received in that regard must be decided by the School Committee or the Management Committee, as the case may be. A failure to write, maintain or communicate such adverse remarks within the prescribed period leads to a legal presumption that the work of the employee was satisfactory.

27. Consequently, the management cannot be permitted to level belated charges relating to a previous academic year in deviance and departure from this statutory scheme. Raising such assertions at the time of serving a charge-sheet, when the statutory protections aimed at safeguarding the employee have been entirely bypassed, cannot be countenanced. The management cannot be allowed to weaponize past, unrecorded incidents to victimize or maliciously terminate the services of an employee.

28. These are statutory safeguards designed to protect employees from arbitrary action by the employer and under no

circumstances can these protections be annihilated. As settled the by the Hon'ble Supreme Court in the case of **Municipal Corporation of Greater Mumbai Vs. Abhilash Lal and Others (Civil Appeal No. 6350 of 2019, decided on 15.11.2019),** if a statute requires a thing to be done in a particular manner, it must be done in that manner alone or not at all.

29. Since the inquiry was void and conducted in flagrant disregard of Rule 37, the subsequent termination order dated 06.10.1999 based on the inquiry report is unsustainable in law. The School Tribunal was justified in setting the same. As such, the Writ Petition No. 2577 of 2006 needs to be dismissed.

30. The employee challenges the School Tribunal's order dated 12.10.2000, rejecting Appeal No. DHL-50 of 1997 due to not condoned the delay. The employee claims that he was appointed as Head Master on 11.06.1990 and was forced to resign under coercion on 15.11.1994.

31. The employee’s resignation took place on 15.11.1994. The employee acceded the post of Assistant Teacher and even presented an appeal (Appeal No. DHL-35 of 1996) contesting the

oral termination as an Assistant Teacher. There was no challenge to the resignation or the reduction in rank at the relevant time. While waiting till 22.12.1997 to present Appeal, the actual delay from the date of altered status is more than three years.

32. Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, provides timelines for filing appeals. While the law allows for the condonation of delay upon indicating sufficient cause, a litigant cannot selectively challenge service changes in absence of diligence. While seeking reinstatement exclusively as an Assistant Teacher in the year 1996 and accepting that status, the employee essentially waived the right to claim the post of Head Master dating back to the year 1994.

33. Allowing such belated challenge to a promotion upsets school administration and prejudices junior teachers who have since been promoted to manage the institution. Consequently, the School Tribunal has not committed any error of law or jurisdiction while refusing to condone the delay. As such, the Writ Petition No. 328 of 2002 also needs to be dismissed.

34. In view of the aforesaid peculiar facts and circumstances, I find no reason to interfere with either of the impugned orders passed by the School Tribunal.

35. Hence, following order :-

**ORDER**

(A) Both Writ Petition No. 328 of 2002 and Writ Petition No. 2577 of 2006 stand dismissed.

(B) Rule stands discharged.

(C) Pending civil applications, if any, also stand disposed of.

**(SACHIN S. DESHMUKH, J.)**

36. After the pronouncement of the judgment, the learned counsel for the petitioner-Management requested for continuation of interim relief for enabling to approach the Hon'ble Apex Court. The said request is opposed by the counsel for respondent.

37. Considering the fact that the entitlement of the employee is endorsed by the Tribunal and the same is confirmed by this Court, the request made by the counsel for the petitioner does not warrant consideration. Consequently, the same is rejected.

**(SACHIN S. DESHMUKH, J.)**

*Omkar Joshi*