



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.167 OF 2026**

1. The Secretary,
Safa Education Society, Vajirabad,
Nanded, Tq. & Dist. Nanded.
2. The Head Master,
Safa Urdu Primary School, Tahuara Bag,
Vajirabad, Nanded, Tq. & Dist. Nanded. ..Petitioners

Versus

1. Sayyada Seema Kausar d/o Mir Sadat Ali,
Age: 45 Years, Occ.: Service,
r/o. Indamdar Galli, Killa Road,
Nanded, Tq. & Dist. Nanded.
2. The Education Officer (Primary)
Zilla Parishad, Nanded,
Tq. & Dist. Nanded. ..Respondents

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Mr. Ganesh A. Gadhe, Advocate for Petitioners.

Mrs. A. S. Mantri, AGP for Respondent-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 08th JANUARY, 2026.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. By consent of parties, matter is taken up for final hearing at the admission stage.
2. The present Writ Petition takes exception to order dated 22.08.2025 passed by Presiding Officer, School Tribunal, Latur in Appeal No.11/2024, whereby Appeal filed by respondent no.1 under Section 9 of M.E.P.S. Act has been partly allowed, thereby setting aside otherwise termination and remitting matter back for *denovo* inquiry as per M.E.P.S. Act, 1977 and Rules of 1981 from stage of constitution of Enquiry Committee.

3. Mr. Gadhe, learned Advocate appearing for petitioners submits that respondent no.1 was appointed as Assistant Teacher on probation. Thereafter, she was appointed as Headmistress. She illegally diverted amount of Rs.1,76,433/- from salary account to her own benefit and some amount from school account without authorization. Eventually, she was suspended and FIR was lodged. She was served with show cause notice for charges of misappropriation, negligence and misconduct. With approval of Education Officer, she was suspended w.e.f. 02.01.2024. On 26.03.2024, she was served with charge-sheet. The enquiry was conducted, wherein she was found guilty for charges. Accordingly, she was terminated from service w.e.f. 22.05.2024.

4. The respondent no.1 approached School Tribunal in Appeal No.11/2024 under Section 9 of M.E.P.S. Act. The petitioner filed written statement and supported legality of enquiry and termination order. However, School Tribunal partly allowed Appeal observing that enquiry was not fair and proper. The Tribunal has further directed petitioner to pay subsistence allowance from date of reinstatement for enquiry till completion of enquiry. According to Mr. Gadhe, aforesaid directions are unnecessary, particularly when suspension of respondent no.1 was preceded by approval from Education Officer.

5. Perusal of order of Tribunal shows that Tribunal has elaborately observed fundamental defects in enquiry, particularly violation of Rules 36 and 37 of M.E.P.S. Rules, 1981. The Tribunal observed that respondent no.1 was not permitted to nominate second representative while her earlier nominated representative was not willing to continue proceeding. Although list of 9 witnesses was given for examination on behalf of Management, 14 witnesses were examined. The statements of witnesses were not supplied to appellant for cross-examination, but report mentions that respondent no.1 refused to cross-examine witnesses. Although President was conveyor, she is examined herself as witness of Management. Similarly, Secretary himself was Presiding Officer and examined himself as witness of Management. There is discrepancy as to number of meetings held during course of enquiry. The respondent no.1 was not served with notice of final report. The Tribunal observed that aforesaid defects vitiates enquiry being defiance of Rules 36 and 37 of M.E.P.S. Rules.

6. In this background, Tribunal thought it fit to direct *denovo* inquiry as per law and principles of natural justice. The Tribunal has further observed that looking to nature of charges, Secretary of Management, who is holding charge of Headmaster cannot be permitted to act as Presiding Officer on behalf of Management, particularly when he was also accused of misappropriation of

amount and he was served with show cause notice by appellant to deposit amount, so also acting as witness against appellant. This Court do not find any reason to interfere in directions given by Tribunal, thereby setting aside termination order and directing *denovo* inquiry.

7. Second wing of argument on behalf of petitioner is that School Tribunal erroneously issued directions imposing liability to pay subsistence allowance on shoulder of petitioner, although school is receiving 100% grant-in-aid.

8. Perusal of order of Tribunal would depict that aforesaid directions are well founded, supported by reasons recorded in paragraph no.56 of impugned judgment of School Tribunal. The Tribunal recorded that directions for *denovo* inquiry required to be given because of defects in conduct of enquiry on part of Management. The Management is under obligation to pay subsistence allowance. If enquiry after suspension of employee is prolonged for any reason, Education Officer/State cannot be burdened with financial liability.

9. In present case, it is apparent that because of fault on part of Management directions for *denovo* inquiry are required to be given. The respondent no.1 is continued under suspension during period of enquiry. It is for Management to conduct enquiry without

further delay. The liability to pay subsistence allowance is only for period of joining of petitioner to enquiry till its conclusion.

10. In this background, this Court do not find any reason to invoke extraordinary jurisdiction under Article 227 of Constitution of India. In result, Writ Petition stands dismissed.

11. Rules stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE