

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12174 OF 2024

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Altaf Ahmed Rasool Saheb Jakler

... Petitioner

Versus

The State of Maharashtra,
Through The Sec. School Education and Sports Dept.
and Ors.

... Respondents

.....
Mr. Prashant Bhavake for the Petitioner.

Mr. I.M. Khairdi for the Applicant in IA

Mr. Lokesh Zade (through VC) for Respondent No.4.

Mr. S.B. Kalel, AGP for the Respondent - State.
.....

CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.

DATE : 4th MAY, 2026.

ORAL JUDGMENT : (Per Pravin S. Patil, J.)

1. Rule. Rule made returnable forthwith with the consent of the parties.

2. By this petition, challenge is to the letter dated 10th July 2024 issued by respondent No.2 – Deputy Director of Education and consequential order passed by the Administrative Officer, Municipal Corporation, Primary Education Board, Solapur, dated 15th July 2024

whereby the proposal of approval of the petitioner-employee was cancelled.

3. It would be relevant to refer to the relevant facts of the present matter. Here the petitioner, who is an employee of respondent No.5-School approached before this Court stating that respondent No.4 is a minority institute. There is a dispute between the groups of the Management and same are pending before the appropriate forum. It is further pointed out that as the School is a minority institute, the Deputy Director of Education, Pune by an order dated 14th December 2010 has notified two posts i.e. Head Master and Clerk in terms of Section 3(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short “MEPS Act”).

4. It is further stated that as per Section 3(2) of the MEPS Act, Management is required to forward the name of employee on nominated post of Head Master after occurrence of vacancy to Deputy Director of Education. If same is approved then the provisions of the MEPS Act are not applicable for such appointment. In other words, on such nominated post, Management can appoint a candidate of their choice as a Head Master of School. As such under the provisions of law, special concession is provided to minority School to make appointment of person of their

choice on nominated post without applying the provisions of MEPS Act and Rules framed thereunder.

5. In the light of this legal position, one group of the Management has forwarded the proposal of the petitioner-employee to the Administrative Officer of the Municipal Corporation Primary School Board, Solapur. The said authority by its communication dated 15th July 2024 granted approval to his appointment as Head Master subject to approval by the Deputy Director of Education under Section 3(2) of the MEPS Act to his name.

6. The Deputy Director of Education by his order dated 10th July 2024 by considering the fact that there is a dispute in the Management, has rejected the proposal of the Management and accordingly communicated the same to the Administrative Officer, Municipal Corporation, School Board, Solapur. The respondent No.3 – Administrative Officer, consequently by order dated 15th July 2024 has rejected the approval which was granted by him in favour of petitioner.

7. The petitioner, therefore, approached before this Court and came with the submission that dispute between the Management cannot be a reason to reject the proposal of Management to approve the name of

person nominated by Management. He has strongly relied upon the judgment of this Court in the case of **Navnath S/o Narsing Gore Vs. State of Maharashtra**¹, and more particularly para 32 of the judgment, which reads as under :-

“32. From the pleadings as well as during the hearing it become evident that the dispute referred to in the order 20.01.2016 was in relation to Management of the institution by rival claimants. Such dispute had no nexus or connection with the selection and appointment of the petitioner and the approval sought for. Just because there was a dispute as to control of Management of the Institution that could not have been a ground to decline approval or to keep such approval in abeyance. Routine affairs of the institution including appointments and approvals thereto are to be considered *de-hors* such tussle as to Management of the institution. That being the position impugned order dated 20.01.2016 cannot be sustained and is liable to be set aside and quashed.”

8. The judgment which relied upon by the present petitioner is not at all disputed. With due respect, in our opinion, same pertains to the individual approval of an employee, wherein Head Master of the School has forwarded the proposal as a routine matter of the institution. In every School after appointments, the approvals are required to be forwarded by the authorities *de hors* the tussle within the Management. In such cases, the Educational authorities are required to be looked into the fact whether permission for filling up the post was sought or not. Whether there are any surplus employees on the list maintained by him etc. In that case, the role of Management is least concern. However, in

1 (2021) 6 Mh.L.J. 118.

the present matter, on the proposal of Management, the Deputy Director of Education is required to take decision. As such, the law laid down by coordinate Bench in the light of this factual position, is not applicable in the matter.

9. In the present case, it would be relevant to refer Sections 2(12) and 2(13) along with Section 3 of the MEPS Act, which reads as under :-

“2. Definitions -

2.(12) "Management" in relation to a school, means,-

(a) in the case of a school administered by the State Government, the Department;

(b) in the case of a school administered by a local authority, that local authority; and

(c) in any other case, the person or body of persons, whether incorporated or not and by whatever name called, administering such school;

2.(13) "minority school" means a school established and administered by a minority having the right to do so under clause (1) of article 30 of the Constitution of India;

3. Application of Act.

(1) The provision of this Act shall apply to all private schools in the State of Maharashtra, whether receiving any grant-in-aid from the State Government or not.

(2) Notwithstanding anything contained in sub-section (1), the provisions of this Act shall not apply to the recruitment [of the Head of a minority school and] any other persons (not exceeding three) who are employed in such school and whose names are notified by the Management to [the Director or, as the case may be,] the Deputy Director for this purpose.”

10. Perusal of Section 3(2) of the MEPS Act clearly states that

prerogative is given to the minority institute to notify three posts of their choice and same has to be notified by the Deputy Director of Education or Director of Education. This provision further provides that any person, whose name is to be notified or to be employed on that post, then the Management is required to forward such proposal to the Deputy Director of Education for approval. As such, in the present case, the role of the Management is crucial because the action of approval of name is depend solely on the basis of proposal of Management. Therefore, unless there is a valid Management, such proposal cannot be accepted by the authorities.

11. The Section 2(12) defines 'Management' according to which persons or body of persons administering the School is the Management of private School. The Management runs the administration of School by taking resolution in their meeting. No individual has right to take any decision at this level. Therefore, in light of Section 3(2) of the MEPS Act, we are of the opinion that such decision should be by valid and legal Management that too such decision must be unanimous or at least by majority of members of Management.

12. So also under Section 2(13), minority School is defined. According to this definition, they have right to administer the School as per right

given under Article 30(1) of the Constitution of India. Therefore, such School which is administered by Management has more responsibility to see that every appointment in the School should be in consonance of the object for which the minority Institute has been established. Therefore, such body of persons (Management) must take any decision unanimously or at least by majority.

13. In the light of above definition of Management and Minority School, we are of the opinion that the legislative intent while incorporating Section 3(2) of MEPS Act is very much clear that such Management must be a body who actually administer the affairs of School. Therefore, it is the burden of the body of persons who tendered proposal to establish before Deputy Director of Education that they are the legal and valid persons. But nothing is placed on record in that regard.

14. It is further pertinent to note that Deputy Director of Education has rejected the proposal of Management on the ground that there is dispute in the Management. In such scenario, said Management must have come forward to raise the grievance in the matter. But Management seems to have accepted the decision of Deputy Director of Education. Hence, in our opinion, petitioner has no *locus standi* to challenge the order of

Deputy Director of Education.

15. In the present case, the procedure adopted by Management is foreign to the established procedure of law. The Management has first forwarded the proposal of petitioner to Education Officer and then requested the Deputy Director of Education to approve the name of petitioner. In our opinion, the normal procedure in such cases is that the Management should first approach to the Deputy Director of Education to get approve the name of employee on the nominated post and then forward the proposal of approval to respondent No.3. But contrary procedure has been adopted in the present matter. There is no justification how such procedure can be accepted in the matter.

16. In the circumstances, the view taken by the Deputy Director of Education in the matter and consequential order of respondent No.3 Administrative Officer to cancel the order of approval, in our opinion, is in consonance with the provisions of law. We do not find any illegality or irregularity committed by the Deputy Director of Education or by the Education Officer in the matter while rejecting the proposal of the petitioner. Thus, we find no merit in the present petition and the same is dismissed as such.

17. In view of disposal of the petition, pending applications are also disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]