



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

WRIT PETITION No.4846 OF 2025

1. Vinod Shikshan Sanstha, Gose (Bk),
Tahsil Pauni, District Bhandara,
through its Secretary
Shri Gangadhar Natthuji Dongre,
Aged about 64 years,
Occupation Cultivator,
R/o Gose (Bk), Tahsil Pauni,
District Bhandara.
 2. Shri Chetak Rajesh Dongre,
Aged 45 years,
Principal, Vinod High School and
Junior College (Art & Science),
Gose (Bk), Tahsil Pauni,
District Bhandara,
R/o Gose (Bk), Tahsil Pauni,
District Bhandara.
- : PETITIONERS

...**VERSUS**...

1. The Education Officer (Secondary),
Zilla Parishad, Bhandara
 2. The Superintendent,
Pay & Provident Fund Unit, (Education),
Zilla Parishad, Bhandara.
- : RESPONDENTS

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Mr. A.Z. Jibhkate, Advocate for Petitioners.
Mr. H.D. Futane, Assistant Government Pleader for Respondent No.1.

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CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : **25th FEBRUARY, 2026.**

PRONOUNCED ON : **07th MARCH, 2026.**

JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

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

2. The petition prays for setting aside the order bearing No.ZPB/ED/Sec/Enquiry/2228/2025, dated 07/08/2025 issued by the respondent No.1 Education Officer (Secondary), Zilla Parishad Bhandara and further a direction to the respondents Nos.1 and 2 to accept the pay bills of the approved employees of the School submitted under the signature of the petitioner No.2 herein.

3. The facts which are more or less undisputed are as under :

The petitioner No.1 is an educational institution registered under the Maharashtra Public Trusts Act as well as Societies Registration Act, which runs a grant-in-aid school, namely, Vinod High School and Junior College (Art and Science) at Village Ghose (Bk), Tahsil Pauni, District Bhandara. The said School is having classes from 5th to 12th standard having strength of near about 1000 students and 34 approved teachers and 10 non-teaching employees. Needless to mention that the School being grant-in-aid, salaries of the employees are directly credited to the accounts of the concerned employees on submission of the pay bills under the signature of the Head-Master.

4. It is further stated in the petition that the petitioner No.2 was promoted on the post of Head-Master with effect from 01/04/2017 by the petitioner No.1 and on submission of proposal of approval to his promotion, the Education Officer, vide order dated 13/04/2017 accorded approval. Since then, the petitioner No.2 is discharging his duties as a Head-Master.

5. A First Information Report came to be registered against the petitioner No.2 bearing Crime No.254/2025 with the Sadar Police Station, Nagpur for offenses punishable under Sections 120-B, 409, 465, 468, 471 and 472 read with Section 34 of the Indian Penal Code. It was alleged in the First Information Report that the present applicant (Accused No.10) has recruited the accused No.12 by forging documents and signatures. The petitioner No.2 was arrested and he was in Police custody from 26/06/2015 to 30/06/2025 and thereafter in judicial custody from 01/07/2025 to 02/07/2025. He was released on bail on 02/07/2025 by the Judicial Magistrate First Class, Court No.6, Nagpur. After getting released on bail, the petitioner No.2, after seeking permission from petitioner No.1, resumed his duties from 03/07/2025.

6. It is further stated in the petition that the petitioner No.2 submitted pay bills of the approved teaching and non-teaching employees of the School to the respondent No.2 for the month of

July 2025. However, the respondent No.1 as also the respondent No.2 refused to accept the said pay bills under his signature and the respondent No.2 vide letter dated 16/07/2025 directed the President/Secretary of the petitioner No.1/Institution to submit a seniority list of Assistant Teachers for grant of temporary administrative and financial powers for release of salary of the school employees. In response to this letter, the petitioner No.1 submitted reply/explanation on 21/07/2025 in which a specific reference was made to the resolution of the Managing Committee stating that the period of custody of the petitioner No.2 from 26/06/2025 to 02/07/2025 has been considered as a period of suspension. It was also stated in the reply that the petitioner No.1 has permitted the petitioner No.2 to resume his duty as a Head-Master with effect from 03/07/2025. In spite of this position, vide letter dated 07/08/2025, the respondent No.1 reiterated his request of submitting the seniority list and stated that even though the petitioner No.2 has been granted bail, no final order has been passed and since the matter has been investigated by the Special Investigation Team, the list as demanded be supplied. It is this communication which is challenged in the present petition on the grounds stated in the petition.

7. We have heard Mr. A.Z. Zibhkate, learned counsel for

the petitioners and Mr. H.D. Futane, learned Assistant Government Pleader for the respondent No.1.

8. Mr. A.Z. Zibhkate, learned counsel for the petitioners while assailing the impugned communication submits that the respondent No.1/Education Officer has no power to ask for the seniority list for according administrative and financial power to the senior-most teacher. He, therefore, submits that the action is without any authority in law. Relying on Rule 33 of the Maharashtra Employees of Private Schools (Conditions of Services) Rules, 1981 (in short, "M.E.P.S. Rules) and more particularly sub-Rule (5) thereof, the learned counsel submits that the said sub-Rule has been interpreted time and again by this Court stating that the deeming suspension contemplated under the Rule is limited to the period for which employees detained in custody and the suspension cannot be permitted to operate once the employee is released from custody.

9. To buttress his submission, he places reliance on judgment of this Court reported in **2003 (4), All MR 979, Vasant Haribhau Ugale Vs. State of Maharashtra and others**. He also relies on a judgment of this Court reported in **1997 (3) Mh.L.J. 279, Dilip Yenkatrao Patil Vs. State of Maharashtra and others**, which holds that Rule 33 (5) of the M.E.P.S. Rules does not contemplate

automatic suspension pending criminal proceedings. It further holds that the power of suspension is vested in the management and it is required to be exercised with the prior approval of the Education Officer. He, therefore, submits that the order impugned is without any authority of law and, therefore, liable to be quashed by this Court in its extraordinary jurisdiction.

10. Per contra, learned Assistant Government Pleader for the respondent No.1 submits that the communication demanding the seniority-list is perfectly legal and valid. He submits that the petitioner No.2 being Head-Master of the School is also general secretary of the Management i.e. petitioner No.1. He, therefore, submits that the petitioner No.2 himself revoked his suspension by calling an urgent meeting on 03/07/2025 in which the resolution was allegedly passed. In the submission of the Assistant Government Pleader, however, no such resolution is placed before this Court as well as the answering respondent while submitting the bills. It is his further submission that looking at the wide scope and the inquiry under the Shalarth ID scam in which the petitioner No.2 is an accused, the respondent No.1 was right in demanding the seniority-list for granting financial and administrative powers to the senior-most teacher. He, therefore, supports the impugned communication.

11. We have heard the learned counsels for the respective parties and with their assistance also gone through the record. We have also perused the judgments filed by the counsel for petitioners. As can be seen from the facts stated supra, the only reason in the impugned communication dated 07/08/2025 is that in the opinion of the respondent No.1, even though the petitioner No.2 has been released on bail, there is no final order (acquittal or discharge). Furthermore, since the matter is under investigation of the Special Investigation Team, the administrative and financial powers are to be given to the senior-most teacher. It, therefore, demands list of seniority as stated above.

12. In the backdrop of these facts, sub-Rule(5) of Rule 33 is re-produced as under :

(5). An employee against whom proceeding have been taken on criminal charge or who is detained under any law for the time being in force providing for preventive detention shall be considered as under suspension for any period during which he is under such detention or he is detained by police for judicial custody for a period exceeding forty-eight hours or is undergoing imprisonment, and he shall not be allowed to draw any pay and allowances for such period until the termination of the proceedings taken against him or until he is relieved from detention and is in a position to rejoin duty after producing documentary proof of his release (otherwise than on bail) or acquittal, as the case may be. An adjustment of his pay and allowances for such periods shall be made according to the

circumstances of the case, the full amount being given only in the event of the employee being acquitted of charge or detention being held by the Court to be unjustified.”

13. Bare perusal of the said sub-Rule (5) would reveal that it puts an embargo to draw any pay and allowance for such period till the termination of the proceedings as mentioned in the said sub-Rule (5). However, the said sub-Rule(5) nowhere contemplates that an employee like the Head-Master, as in the present case, the petitioner No.2, can be denuded of its administrative and financial powers. It is an admitted position on record that the petitioner No.2 has been promoted as Head-Master by following due process of law and the competent authority i.e. the respondent No.1 has also granted approval to the said appointment. As held by this Court judgment of *Vasant Ugale* referred supra, period of suspension and more particularly deeming suspension is limited for which the employee is detained in custody. It, therefore, follows that once the employee out of the custody, the suspension stands revoked. Furthermore, apart from this, effect of suspension is only limited to disallowing of drawing any pay or allowance. It nowhere speaks of restraining a Head-Master from performing his administrative and financial duties as that of submitting pay bills to the Education Officer. We could not find any power in the M.E.P.S.

Act or Rules framed thereunder under which such a communication which is impugned in the petition could be issued. The letter/communication dated 07/08/2025 in our view is *de-hors* of any power under the said statute and it being so is liable to be quashed and set aside. We, therefore, pass the following order.

ORDER

(i) The Writ Petition is allowed.

(ii) The order dated 07.08.2025, No.ZPB/ED/Sec/Enquiry/2228/2025, passed by the respondent No.1 Education Officer (Secondary), Zilla Parishad Bhandara is quashed and set aside.

(iii) It is further directed that the respondent Nos.1 and 2 to accept the pay bills of the approved employees of Vinod High School and Junior College Ghose (Bk), Tahsil Pauni, District Bhandara submitted under the signature of petitioner No.2 and release their unpaid salary, if any, as well as current salary and continue to release the same.

(iv) The petition is disposed of.

14. Rule is made absolute accordingly.

(NANDESH S. DESHPANDE, J.)

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