



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

WRIT PETITION NO. 6319 OF 2025

1. Shri Vitthal Bahuddeshiya Shikshan Sanstha, bearing Registration no.21622 (Nag), At Sawargaon, Tah.Narkhed, District Nagpur, through its President.
2. Nadekar High School, Sawargaon, Tahsil Narkhed, District Nagpur, through its In-charge Head Mistress.

PETITIONERS

VERSUS

1. Pitambar Narayan Gaidhane, Aged 55 years, Occ: Service, R/o Plot no.51/C, New Om Nagar, Hudkeshwar Road, Nagpur.
2. Education Officer (Secondary), Zilla Parishad, Nagpur, District Nagpur.

RESPONDENTS

Shri V.N. Patre, counsel for the petitioners.
Shri S.D. Chande, counsel for the respondent no.1.
Shri H.R. Dhumale, Assistant Government Pleader for the respondent no.2.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : APRIL 16, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. This petition filed by the Management and the School challenges the interim order dated 04.07.2025 passed by the Presiding Officer, School Tribunal, Nagpur by which the application for stay filed by the respondent no.1-Employee is allowed and the stay is granted to the order of demotion of the employee.

3. The controversy arises in the backdrop of an appeal filed by the respondent no.1-Employee challenging the demotion order dated

05.02.2025 vide appeal no.STN-04 of 2025. The management has ordered demotion of the respondent no.1 by way of penalty based on the findings of the enquiry. The respondent no.1 raised a challenge to the order of demotion and also filed the separate application for stay to the demotion order, which came to be allowed by order dated 04.07.2025 and the same is subjected to challenge by way of instant petition.

4. Shri V.N. Patre, learned counsel for the petitioners submitted that in absence of any *prima-facie* case, balance of convenience and irreparable loss, the respondent no.1 was not entitled for grant of any interim relief and the impugned order of demotion which was preceded by an enquiry ought not to have been stayed. He submitted that the respondent no.1 had indulged in several acts of misconduct including an incident of misbehaviour with a lady teacher and in view of the ample evidence on record, the allegations were proved. In this context, the impugned order passed by the Tribunal granting stay to the demotion order was unwarranted. By pointing out the position of law as laid down by this Court in ***Progressive Education Society & Another Versus Rajendra Damodhar Atkar & Another*** [Writ Petition no.23 of 2015 with **connected writ petition**], he submitted that the reliance placed by the Tribunal on this judgment was misplaced since in the instant case the enquiry was conducted against the respondent no.1 on several other allegations and the inference about the principle of double jeopardy is erroneous.

5. Shri S.D. Chande, learned counsel for the respondent no.1 opposed the petition and submitted that the Tribunal has passed the impugned order after considering all the relevant aspects and by applying the position of law as laid down in *Progressive Education Society & Another* (supra) has rightly granted stay to the order of demotion. He submitted that the petitioner no.1-Management has acted arbitrarily in imposing the punishment of demotion despite imposition of earlier penalty of withholding one increment for the same misconduct and as such the order of demotion is unsustainable in law. He also submitted that the main appeal is pending before the Tribunal and in view of the fact that the respondent no.1 is holding the post of Headmaster as on today, the interim order warrants no interference on any count.

6. While considering the controversy, it has to be noted that the main appeal filed the respondent no.1 challenging the order of demotion is pending before the School Tribunal. The respondent no.1 is the senior-most teacher and was holding the post of Headmaster from 01.01.2022. Pertinent to note, the petitioner no.1-Management had earlier issued a shown cause notice dated 03.02.2024 to the respondent no.1 with respect to charge of misbehaviour with a lady teacher and after reply was submitted by the respondent no.1 on 08.02.2024, no further enquiry was initiated in that regard. Thereafter on 18.06.2024, another show cause notice was issued to the respondent no.1 and pursuant thereto, minor penalty of withholding one increment was imposed by the order dated 11.07.2024. Only thereafter, further enquiry was conducted against the respondent no.1 based on several allegations including the earlier

allegation and the enquiry culminated into imposition of major penalty of demotion against the respondent no.1. Thus, it appears that for the same charges, although a minor penalty of withholding one increment was imposed, the petitioner no.1-Management conducted another enquiry and imposed major penalty of demotion against the respondent no.1.

7. In this background, the position of law as laid down by this Court in ***Progressive Education Society & Another*** (supra) dealing with a situation of imposition of both, minor and major penalty, for the same charges, appears to have been aptly considered and relied upon by the Tribunal. Pertinent to note, the Tribunal has taken note of the earlier confidential reports from the year 2005 to 2010 and unblemished service record of the respondent no.1. The Tribunal has also considered the irregularities in the conduct of the enquiry with respect to the timeline as provided by Rules 28 to 36 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and by considering the entire material before it, the Tribunal has recorded that the respondent no.1-Employee has made out a *prima-facie* case with balance of convenience in his favour and accordingly granted the interim relief.

8. The contentions canvassed on behalf of the petitioners about the overall conduct of the respondent no.1 and the findings recorded by the Enquiry Officer are subject matter of adjudication in the appeal before the Tribunal. The controversy involved in the instant petition is about the legality of the interim order of stay granted by the Tribunal in the pending appeal. At this stage, the relevant factors of *prima-facie* case, balance of

convenience and irreparable loss appears to have been fulfilled by the respondent no.1 and he has thus established his entitlement for the interim relief. As such, the contentions of the petitioners that the respondent no.1 will not be put to any prejudice even if the interim relief is refused, cannot be accepted, particularly in view of the fact that the respondent no.1 was appointed as Headmaster on 01.01.2022 and this appointment was even approved by the Education Officer (Secondary).

9. After giving anxious consideration to the entire contentions of the parties and on perusal of the impugned order, it is clear that the respondent no.1 has made out a case for grant of interim relief. The Tribunal has recorded various reasons which do not at all appear to be perverse on any count warranting indulgence under Article 227 of the Constitution of India. The writ petition is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)