



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.543 OF 2026

Saarang s/o Ramesh Gajbe,
Aged about- 40 years,
Occupation-Teacher
R/o. Sukhsagar Apartment,
Pandey Layout, Khamla,
Nagpur, Tahsil and District Nagpur.

: PETITIONER

...VERSUS...

1. Carmelites of Mary Immaculate(CMI)
through its Authorised Officer Mar Thoma ,
Provincial House (Sant Chavara B.Ed. College),
Opposite Montfort ITI,
Bamni Ballarshah, Tahsil Ballarshah,
District Chandrapur.
2. Carmel Academy, through its Principal,
C.B.S.E. Higher Secondary School,
Ashirvan, Waddhmna,
Opposite Highland Park,
Nagpur-440 023.
3. Central Board of Secondary Education,
through its Secretary,
CBSE Integrated Office Complex,
Sector-23, Phase - 1, Dwarka,
New Delhi – 110 077.

: RESPONDENTS

Mr. K.J. Topale, Advocate for Petitioner.

CORAM

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

DATE

: 18th FEBRUARY, 2026.

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

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

2. This is a petition filed under Article 226 of the Constitution of India challenging the suspension order issued by the respondent No.2 suspending the petitioner for the misconduct over the school premises.

3. The facts which are emerging from the petition are as under :

On 5.11.2025 the respondent No.2 levelling complete and baseless allegations against the petitioner, threatened him which raised serious concerns about his mental health. The petitioner, therefore, by legal notice dated 7.11.2025 requested the respondent No.2 and put up his demands in a legal manner. In the said notice the petitioner intimated the respondent No.2 that he will initiate the protest against the ill-treatments and demanded the CCTV footages of 5.11.2025 as also the report of the internal Committee about the said incident. On 11.11.2025 a Committee was formed to inquire into the grievances raised by the petitioner. On 17.11.2025 the Management issued a warning notice to the petitioner and directed him to refrain himself from any protest and

not to wear black band on arm.

4. Thereafter, on 21.11.2025 the petitioner lodged the Police Complaint pursuant to which a non-cognizable report was lodged in the concerned Police Station. Thereafter, on 27.11.2025 the respondent No.2 issued a second warning notice to the petitioner and directed the petitioner to refrain himself from any protest. It was followed by a third show cause notice on 19.12.2025.

5. On 21.12.2025 the petitioner wore a black band on arm as a silent, peaceful protest symbolizing his ongoing grievances at the workplace, harassment and denial of CCTV footage. It is the contention of the petitioner that the said protest was done peacefully and without causing any disturbance to the normal functioning of the school. However, as submitted by the learned counsel for the petitioner only just to harass the petitioner, respondent No.2 has issued order of suspension on 24.12.2025 suspending the petitioner and intimating him that a inquiry committee will be formed to look into the matter. It is this order, which is impugned in the present petition on the ground raised therein.

6. At the outset, when we confronted the learned counsel for the petitioner regarding maintainability of the petition more

particularly in view of the fact that the respondent No.1 and respondent No.2 are private entities. As placed reliance in the case of **Marwari Balika Vidyalaya Vs. Asha Srivastava and others**, reported in (2020) 14 SCC 449, and **St. Mary's Education Society and another Vs. Rajendra Prasad Bhargava and others**, reported in (2023) 4 SCC 498 to buttress his submission that a writ would be maintainable against a private institution.

7. We have gone through the said judgment. Para 37 of the judgment of **St. Mary's Education Society and another** (supra) carves out an exception regarding maintainability of the writ petition and states that only when there is a public element involved, a writ petition would be maintainable against a private entity, para 37 of the said judgment by relying on the earlier judgment of **K.K. Saksena Vs. International Commission on Irrigation & Drainage** is reproduced as under.

37. This Court in K.K. Saksena v. International Commission on Irrigation & Drainage, after an exhaustive review of its earlier decisions on the subject, held as follows: (SCC pp. 692 & 696, paras 43 & 52)

"43. What follows from a minute and careful reading of the aforesaid judgments of this Court is that if a person or authority is "State" within the meaning of Article 12 of the Constitution, admittedly a writ petition under Article 226 would lie against such a person or body. However, we may add that even in such cases writ would not lie to enforce private law

rights. There are a catena of judgments on this aspect and it is not necessary to refer to those judgments as that is the basic principle of judicial review of an action under the administrative law. The reason is obvious. A private law is that part of a legal system which is a part of common law that involves relationships between individuals, such as law of contract or torts. Therefore, even if writ petition would be maintainable against an authority, which is "State" under Article 12 of the Constitution, before issuing any writ, particularly writ of mandamus, the Court has to satisfy that action of such an authority, which is challenged, is in the domain of public law as distinguished from private law.

52.....”

8. It is the contention of the petitioner that he was holding silent demonstration as a mark of protest against the harassment meted out to him by wearing the black arm band. If this fact is analyzed in view of the authoritative pronouncement of judgment in **St. Mary's Education Society and another** (supra), we find that no public element is involved. The employer is within his right to initiate/commence a departmental enquiry, if according to it the employee is indulged in any misconduct. Moreover, when confronted the learned counsel for the petitioner is unable to point out any set of rules/regulations regulating the service of the petitioner which could have been helpful to him and more particularly service conditions with which the petitioner is concerned. In that view of the matter, we find that for want of any

service regulations and also for want of any public element the petition is not maintainable.

9. Furthermore, the argument advanced by the learned counsel for the petitioner regarding that there is a violation of fundamental right, cannot take his case any further since no public element is involved. It would be purely in dispute between the employer and employee and as already stated supra i.e. the sole prerogative of the employer. Furthermore, learned counsel for the petitioner also informs that after suspension he had not made any representation as envisaged in the suspension order as also at present a charge-sheet has been issued.

10. Taking overall view of the fact, we are not inclined to exercise the writ jurisdiction under Article 226 of the Constitution of India, the petition has no merit and is liable to be dismissed.

11. Accordingly, petition stands dismissed.

(NANDESH S. DESHPANDE, J.)

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