



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3076 OF 2022

Namrata Ramchandra Zagade

.. Petitioner

Versus

Shri. Gujrati Shikshan Pracharak Mandal,
Pune & Ors.

.. Respondents

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- Mr. Vivek M. Punjabi a/w Mr. Priyansh R. Jain, Advocates for Petitioner.
 - Mr. Shubham Misar, Advocate for Respondent Nos.1 to 10.
 - Ms. Vaishali Nimbalkar, AGP for Respondent Nos.11 and 12 – State.
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CORAM : MILIND N. JADHAV, J.

DATE: : FEBRUARY 03, 2026

JUDGMENT:

1. Present Petition impugns judgment dated 01.02.2022 passed by the School Tribunal, Pune whereby Appeal filed by Appellant (Petitioner herein) against her termination dated 06.03.2019 was partially allowed declaring her termination as illegal. Respondent No.1 – Management was directed to pay six months salary as compensation to Petitioner in lieu of reinstatement within a period of 30 days.

2. Briefly stated, present dispute pertains to illegal termination of service of Petitioner who was appointed as Assistant Teacher in Respondent No.7 – School and who rendered uninterrupted service for more than nine years prior to her termination dated 06.03.2019.

2.1. Petitioner is duly qualified, holding degrees of Bachelor of

Science (B.Sc.) and Bachelor of Education (B.Ed.) with specialization in Science and Mathematics and was eligible to be appointed as a trained Teacher for secondary classes in terms of Rule 6 read with Schedule 'B', Clause 3 of the Maharashtra Employees of Private Schools Rules, 1981 (for short "**MEPS Rules**").

2.2. Respondent No.1 is a Minority Educational Society registered under the Maharashtra Public Trusts Act, 1950. Respondent Nos.2 to 6 are its trustees and office bearers and constitute the "Management" within the meaning of Section 2(12) of the Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977 (for short "**MEPS Act**"). Respondent No.7 is a recognized unaided secondary school where Petitioner was appointed as Assistant Teacher.

2.3. In the year 2011, Respondent No.7 – School had a vacancy of the Teacher for the subjects of Science and Mathematics. Petitioner was duly appointed as Assistant Teacher by Appointment Order dated 12.08.2011 for the period from 20.06.2011 to 30.04.2012. She joined service on 20.06.2011 and commenced her teaching duties from 21.06.2011.

2.4. Though the initial appointment was for eleven months, services of Petitioner were continued uninterrupted from June 2011 till March 2019 without any break by the Respondent No.1. She was paid regular monthly salary throughout including salary for the month of

May from 2012 onwards thereby evidencing her continuous service without any break.

2.5. During her tenure, Petitioner discharged duties of teaching Science and Mathematics and was entrusted with statutory responsibilities. Her name was registered with the Employees' Provident Fund Organisation and EPF contributions were regularly deducted and deposited by Respondent No.1. She was also appointed as Examiner, Invigilator and Moderator by the Maharashtra State Board of Secondary and Higher Secondary Education from 2013 till 2019 for examination conducted by the Board.

2.6. Petitioner participated in various government-mandated surveys, workshops and training programmes conducted by the Education Department and local authorities in her capacity as Assistant Teacher of Respondent No.7 – School.

2.7. In the year 2018, after reconstitution of the Management Committee and upon Respondent No.5 assuming charge as Secretary, Petitioner was subjected to interference in discharge of her duties and was prevented from attending work. She issued a legal notice dated 18.12.2018 seeking permission to resume work. Subsequently, she was orally restrained from attending the School.

2.8. On 12.03.2019, Petitioner received a termination notice dated 06.03.2019 stating that the post occupied by her had been

abolished and her services stood terminated with effect from 28.02.2019. Being aggrieved, Petitioner approached the Education Officer and Deputy Director of Education. As no relief was granted, she filed Appeal No.2 of 2020 under Section 9 of the MEPS Act before the School Tribunal, Pune. Delay was condoned and Appeal was heard on merits leading to passing of the impugned order / judgment.

3. Mr. Punjabi, learned Advocate for Petitioner would submit that the School Tribunal having categorically held that termination of Petitioner was illegal, committed a grave error in law in denying reinstatement and granting a measure lump-sum compensation of Rs.50,000/-, rendering the impugned judgment self-contradictory and unsustainable.

3.1. He would submit that the Tribunal failed to appreciate that Petitioner rendered uninterrupted service from June 2011 till March 2019 on a clear vacancy and discharged duties of a regular Assistant Teacher and therefore her services could not have been terminated without following the mandatory provisions of the MEPS Act and MEPS Rules.

3.2. He would submit that the finding treating Petitioner as a temporary employee is contrary to the record which demonstrates continuous salary payment, EPF deductions and entrustment of statutory duties ordinarily assigned only to regular teachers.

3.3. He would submit that once termination was held to be illegal and not preceded by any inquiry as mandated under the MEPS Act, reinstatement with continuity of service was the normal and necessary consequence and denial thereof was wholly unjustified.

3.4. He would submit that the Tribunal erred in accepting the plea of abolition of post in the absence of any approval from the Education Officer, as the Management has no authority to unilaterally abolish a teaching post.

3.5. He would submit that denial of reinstatement on speculative grounds such as possibility of future disputes or alleged criminal complaints is alien to the statutory scheme of the MEPS Act and amounts to exceeding jurisdiction.

3.6. He would submit that the Management having continued Petitioner in service for more than nine years cannot be permitted to take advantage of its own alleged procedural lapses under Section 5 of the MEPS Act.

3.7. He would submit that the impugned judgment suffers from non-application of mind, particularly in as much as reference is made to Section 11(e) of the MEPS Act, which does not exist.

3.8. He would submit that grant of meagre compensation in lieu of reinstatement, despite a clear finding of illegal termination, defeats

the object of the MEPS Act and is contrary to settled law.

3.9. He would therefore submit that the impugned judgment passed by the School Tribunal deserves to be quashed and set aside.

4. *PER CONTRA*, Mr. Misar, learned Advocate appearing for Respondent Nos.1 to 10 would submit that the present Writ Petition is wholly misconceived and not maintainable as Petitioner was never appointed on a clear, vacant and permanent post in accordance with Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977. He would submit that the law is now well settled that an appointment not made in consonance with Section 5 of the MEPS Act does not confer any right of permanency or reinstatement as held by the Supreme Court in the case of *Hindustan Education Society and Anr. Vs. Sk. Kaleem Sk. Gulam Nabi and Ors.*¹

4.1. He would submit that Appointment Order dated 12.08.2011 itself clearly demonstrates that Petitioner was appointed purely on a temporary basis for a fixed period of eleven months from 20.06.2011 to 30.04.2012 and Petitioner was fully aware from inception that her services were co-terminus with the said period. He would submit that the Supreme Court in the case of *Pragati Mahila Samaj and Anr. Vs. Arun s/o. Laxman Zurmure and Ors.*² has categorically held that a

¹ (1997) 5 SCC 152

² (2016) 9 SCC 255

fixed-term or temporary appointment cannot be converted into a permanent one merely on the basis of continuation in service.

4.2. He would submit that there is not even a whisper in the pleadings to suggest that Petitioner was appointed after following the mandatory statutory procedure prescribed under the MEPS Act and Rules namely issuance of advertisement, inviting applications, conducting interview and selection by a duly constituted Selection Committee. He would refer to and rely upon the decision of the Full Bench of this Court in the case of *Ramkrishna Chauhan Vs. Seth D. M. High School and Ors.*³ which has held that compliance with the statutory recruitment procedure is mandatory and any appointment *dehors* the Rules is void and unenforceable in law.

4.3. He would submit that the burden squarely lay upon the Petitioner to establish that she was appointed on a permanent post, and in the absence of any pleadings or documentary material to that effect, no claim of permanency or reinstatement could be sustained.

4.4. He would submit that mere continuation in service or payment of salary cannot confer any legal right of permanency upon the Petitioner when her initial appointment itself was *de-hors* the procedure contemplated under Section 5(1) of the MEPS Act. In this regard, reliance is placed on the decision of this Court in the case of

³ 2013 (2) Mh.L.J. 713

*Sneh Kohli Vs. The Universal English Trust and Ors.*⁴ wherein it is held that continuation of service by itself does not create a vested right in favour of an employee appointed on a temporary basis.

4.5. He would submit that the School Tribunal after considering the entire record has rightly exercised its discretion by granting compensation of six months salary in lieu of reinstatement which is a legally permissible relief. He would submit that this approach is consistent with the decisions of this Court in the cases of *Jitendra Vs. Dinesh and Ors.*⁵ and *Somnath Kondaji Korde Vs. Samata Samaj Vikas Sanstha and Ors.*⁶ wherein compensation in lieu of reinstatement was upheld in cases of irregular or temporary appointments.

4.6. He would submit that having accepted the benefits flowing from the impugned judgment, Petitioner is estopped from challenging the same by filing the present Writ Petition. He would submit that this principle has been reiterated by this Court in the case of *Shreemati Nathibai Damodar and Ors. Vs. Smita Govind Takale and Ors.*⁷ holding that a litigant who accepts benefits under an order cannot approbate and reprobate.

4.7. He would submit that the direction in the judgment dated 01.02.2022 has already been complied with by the Management and the compensation amount of Rs.82,800/- has been paid and accepted

⁴ 2016 SCC Online Bom 8983

⁵ 2025 SCC Online Bom 2686

⁶ 2025 SCC Online Bom 3817

⁷ 2024 SCC Online Bom 4591

by the Petitioner.

4.8. He would submit that the present Writ Petition thus suffers from acquiescence, lack of *bona fides* and absence of any legal right and no interference is warranted with the well-reasoned judgment dated 01.02.2022 passed by the School Tribunal, Pune in Appeal No.2 of 2020. He would accordingly submit that the Writ Petition deserves to be dismissed with costs.

5. Respondent Nos.1 to 10 have filed Affidavit-in-Reply dated 22.11.2024 sworn by Mr. Deepak Mehta, Chairman of Respondent No.1 – Society, opposing the present Writ Petition and supporting the impugned judgment passed by the learned School Tribunal, Pune. I have considered the same.

6. I have heard Mr. Punjabi, learned Advocate for Petitioner; Mr. Misar, learned Advocate for Respondents Nos.1 to 10 and Ms. Nimbalkar, learned AGP for Respondent Nos.11 and 12 – State and with their able assistance the perused record of the case. Submissions made by learned Advocates have received due consideration of the Court.

7. At the outset, it is pertinent to note that the present Writ Petition challenges the judgment passed by School Tribunal, Pune, whereby termination of Petitioner is held to be illegal, however, relief of reinstatement is declined and six month salary as compensation in

lieu thereof is granted.

8. It is an admitted position that Petitioner was appointed vide Appointment Order dated 12.08.2011, joined service on 20.06.2011, commenced teaching duties from 21.06.2011 and uninterruptedly continued in service till her termination on 06.03.2019 thereby rendering continuous service of approximately 7 years and 8 months.

9. It is also borne out from the record that subsequent to her termination, the Petitioner remained unemployed till the passing of the impugned judgment dated 01.02.2022 and until today resulting in unemployment. It is not in dispute that Petitioner was appointed by the Management of the Trust against a clear vacancy of Assistant Teacher which existed in 2011, her services were continued thereafter uninterruptedly she was granted all benefits and status of a permanent employee.

10. There is no dispute about employment of the Petitioner in the School and her services rendered diligently from the date of her appointment i.e. 12.08.2011 until 2019 when by an oral order of termination without holding any departmental inquiry whatsoever her services were terminated retrospectively w.e.f. 28.02.2019. A letter to that effect which is a notice dated 06.03.2019 is placed on record which has been considered by the Tribunal which states that services of Petitioner stood terminated due to her behaviour w.e.f. 28.02.2019.

What is intriguing is the fact that no inquiry has been conducted whatsoever, no departmental enquiry held regarding her alleged behavior prior to terminating the services of Petitioner, no show cause notice is issued, no charge has been framed, no inquiry officer has been appointed and no statement have been recorded. Thus *prima facie* from the record it is an admitted position that termination of the Petitioner is contrary to law. Learned Tribunal in paragraph No. 10 has in this regard returned a categorical finding that "*.....It appears that it is mentioned in the said letter that, 'services of Appellant is being terminated due to her behaviour w.e.f. 28.02.2019. From these contents in the notice itself it can be gathered that the Respondents have terminated the service of the Appellant by putting stigma on her..... Admittedly the Respondents have not done so, therefore, the impugned termination order is against the provisions of law.'*" Further in the said paragraph, learned Tribunal has held the termination order / letter to be against the provisions of law on one another ground namely the fact that services of Petitioner were terminated from 28.02.2019. Thus learned Tribunal agreed with to the ratio laid down in the case of ***Sulochana Daulatrao Thakare Vs. Sangam Shikshan Sanstha through its Secretary***⁸ wherein it held that every termination or dismissal order will be effective from the date of order and it cannot have retrospective effect at all.

8 Nagpur 2003(3) CLR 568

11. Once the learned Tribunal has come to the aforesaid definite conclusion and finding on the basis of the material available on record that dismissal / termination of the Petitioner is contrary to law, that termination is done without following the due process of law, that no departmental inquiry held whatsoever to terminate the services of the Petitioner, then it was incumbent upon the learned Tribunal to consider this finding for deciding the consequential relief of reinstatement sought for by the Petitioner. The relief of reinstatement in such circumstances ordinarily follows the decision on the principal issue of termination unless there were any extraordinary reasons. However learned Tribunal in paragraph No. 11 has decided the relief for reinstatement sought for by Petitioner on completely misplaced notions and with complete non application of mind altogether. Though the learned Tribunal in paragraph No. 11 of the impugned judgment has categorically held that in ordinary course the employee is entitled for reinstatement when termination is set aside by the Court, however in each case reinstatement cannot be ordered mechanically. If learned Tribunal has to justify this broad finding as applicable to the present case then there will have to be strong circumstances and reasons for the learned Tribunal to do so. However in the present case and the decision of the Tribunal no such reasons are found to be justifiable for the Tribunal to not consider reinstatement of the Petitioner. Learned Tribunal has given cursuory reasons for denying right of reinstatement

of the Petitioner. Firstly learned Tribunal has stated that it is the Petitioner's case that the Trustees of Respondents - Management were harassing her and she had produced the report lodged by her in the Police Station in that regard. Secondly learned Tribunal has held that Respondents - Management have come with a case that Petitioner used to abuse the Trustees of the Trust and malign their public image. Merely by stating these two reasons without any substantiation or proof of any incident whatsoever, learned Tribunal has concluded that since the Trustees of the Trust had filed a criminal complaint and the same was pending with JMFC, Pune, relationship between the Petitioner and Trustees of the Trust was constrained which possibility could not be ruled out and if reinstatement is ordered then there will be a quarrel between the parties. This is the third ground for denying reinstatement to Petitioner. *Prima facie* when this ground is seen, on the face of record it has been arrived at complete non-application of mind by the learned Tribunal to the facts aof the case before itself. It has virtually no nexus to the decision arrived at regarding the termination been illegal and contrary to law. It is true that criminal complaint was filed by the Trustees of Respondents - Management which was nomenclatured as 658/2021 but it is equally true that after passing of the impugned judgment, the said complaint was not proceeded with by the Management and they themselves made a statement before the learned JMFC-2, Pune that they did not wish to

pursue the matter further and the said complaint was therefore dismissed in default. What is more important is to see is what was the nature of that complaint.

12. Copy of that criminal complaint is placed before me by Mr. Punjabi. After going through the said criminal complaint, it is *prima facie* seen that the said complaint was filed on completely innocuous, erroneous and vague grounds. Nothing has been proved or proven with respect to what is stated in the complaint or proven *prima facie*. After going through the record, it is *prima facie* seen that until 2018 there was absolutely no issue in respect of employment of the Petitioner with the School and the Trust and that Petitioner has had a completely unblemished record. It is seen that in 2019, Respondent No. 5 was appointed as Secretary of the Trust and that is the point of time when skirmish and friction with the Petitioner commenced. Insofar as the complaint of Management / Trust is concerned, the same is completely unqualified and unsubstantiated on the face of record. There is absolutely no allegation whatsoever about any moral turpitude or any serious behavioural reason or misconduct that is alleged or can be made out or seen from the copy of complaint filed by the Management of the Trust. The said complaint and the allegations made therein are as vague as possible. In that view of the matter, the third finding which is returned by the learned Tribunal in paragraph No. 11 is completely incongruous and untenable in law if the same has

to be considered as a sequitur to the finding returned in paragraph No. 10 of the impugned judgment. Once the learned Tribunal has come to the definite conclusion on the basis of the documentary evidence that termination of the Petitioner was illegal in law, that it was effected without following the due process of law, that there was no reason for termination of Petitioner retrospectively done by the Management, that no show cause notice was issued, that no misconduct was flagged, that no inquiry was held, then in that case, Petitioner deserved to be reinstated with full honours.

13. In fact while determining the question of reinstatement, learned Tribunal proceeded on the settled principle that in ordinary course the employee is entitled for reinstatement when termination is set aside by the Court, despite which it took a contrary view which is clearly impermissible in law. In my opinion after going through the impugned judgment and the material placed on record before me, I am convinced that this is a case of an employee in the ordinary course and there are absolutely no special circumstances or allegations or derelictions which were proved by the Respondents - Trust against the Petitioner. The allegations made against the Petitioner are as vague as they can be on the face of record. Nothing is specifically alleged or pointed out qua any incident in question. It is seen that Petitioner was a permanent employee of the school. She was registered with the Employees' Provident Fund and Employees' State Insurance

Corporation under the provisions of MEPS Act and MEPS Rules as a permanent employee of the School. She rendered unblemished record of service for almost eight years until she was terminated one fine day on 28.02.2019 by an oral termination with retrospective effect and stopped from attending the school.

14. In this regard, attention is invited to the decision of this Court in the case of *The Vice President, Somaiya Trust & Anr. Vs. Dr. Pradnya d/o. Gopalrao Giradkar & Ors.*⁹ wherein referring to the decision of the Supreme Court in the case of *Educational Society, Tumsar & Ors. Vs. State of Maharashtra & Ors.*¹⁰ it has been stated that when employees are appointed as teachers and they are permanent in nature then they shall assume the status of employees of the State and if they have to be terminated or removed or dismissed from services, then appropriate due process of law is required to be strictly followed by the Educational Institution in according with the provisions of law.

15. Here in the present case admittedly no show-cause-notice is issued, no dereliction is alleged on the part of Petitioner, no charge is framed, no inquiry is conducted, no statements are recorded and abruptly on oral termination a retrospective termination letter is issued which is in complete defiance of the due process of law. With such strong factual defects which are completely untenable on the face of

⁹ Civil Writ Petition No. 5424 of 2014 decided on 25.07.2025

¹⁰ (2016) 3 SCC 512

record merely because the Management did not want the Petitioner to continue in employment cannot be a reason for denying reinstatement to the Petitioner. If such an order is allowed to prevail, it would send a wrong signal to the Society at large and it will be detrimental to the entire Educational system of governance in Educational Institutions. In the present case, impugned judgment dated 01.02.2022 has made a mockery of the due process of law. Though the learned Tribunal has awarded six months salary as compensation to the Petitioner in lieu of reinstatement, the same cannot wipe out the stigma cast upon the Petitioner by the Management, from which she has been completely absolved by the learned Tribunal itself and most importantly the valuable time that is lost in the interregnum. Compensation of six months salary is not adequate compensation to the Petitioner - Teacher to consider her unblemished service of eight years rendered to the School . It is seen that Petitioner was employed as teacher for teaching Math and Science subjects from 2011 to 2018. Her entire career as teacher with the Institution has remained unblemished. Hence in view of the aforesaid strong facts and circumstances in the present case, I am in complete disagreement with the finding returned in paragraph No. 11 of the impugned judgement and the same therefore call for immediate interference of this Court. In my opinion granting compensation of six months salary to the Petitioner who has given the best years of her life to the Educational Institution cannot be adequate

measure or compensation. In fact in my opinion this is not a fit case for grant of compensation in lieu of reinstatement at all. The charges which are levied against the Petitioner are not proved by the Management in any inquiry nor proceeded with. This is a clear case of high handedness and arbitrariness exercised by the Management of the Trust and the School. It clearly borders on illegality and exploitation without regard to the due process of law. Teaching is not a private business as dealt with by the Management of the Trust. If that be the case this is a fit case for reinstatement of the Petitioner. Hence, the finding returned in paragraph No. 11 of the impugned judgment offering six months salary as compensation in lieu of reinstatement under Section 11(e) of the MEPS Act stands dismissed in view of the categorical and specific findings returned by the Trial Court in paragraph No. 10 and it is directed that Petitioner is entitled to reinstatement as teacher in the Respondent No.7 school of Respondent - Trust along with full backwages. In that view of the matter, impugned judgment dated 01.02.2022 stands modified to this extent. The finding returned in paragraph No. 11 therefore stand rejected and substituted by the above finding. Finding returned in paragraph No. 10 of the impugned judgment stands confirmed and upheld. Resultantly it is directed that Petitioner shall be reinstated and reappointed appointed as Teacher in the same post on which she was serving at the time of her termination with immediate effect on the

basis of a server copy of this Judgment.

16. Insofar as the issue of backwages / compensation to be awarded to Petitioner is concerned, in the facts and circumstances of the present case, I am of the opinion that Petitioner is not at fault whatsoever. Respondents have not followed the due process of law in terminating the services of Petitioner and have taken the law into their own hands. Petitioner has remained in unemployment during the aforesaid period and has suffered the ignominy of being out of service and without any earnings without her fault. There is no material placed by the Management on record to show that she was employed elsewhere during the interregnum.

17. Attention is drawn to a recent decision of the Supreme Court in the case of *Constable Uma Shankaran Vs. Union Of India & Ors.*¹¹ delivered on 16.01.2026 wherein the Supreme Court in paragraph No. 8 has held that when termination is held to be illegal and no proof of alternate employment exists, denial of backwages is unjustified. The relevant paragraph No.8 is reproduced below for immediate reference:-

“8. We are conscious of the law that ordering back wages to be paid to a dismissed employee – upon his dismissal being set aside by a court of law – is not an automatic relief and, ordinarily, is dependent on the employee being not employed in the interregnum. However, the general rule is that if the employer by reason of its illegal act deprives any of its employees from discharging his work and the termination is ultimately held to be bad in law, such employee has a legitimate and valid claim to be restored with all that he would have

¹¹ Special Leave Petition (C) Nos.6903-6904/2020 decided on 19th January 2026

received but for being illegally kept away from work. This is based on the principle that although the employee was willing to perform work, it was the employer who did not accept work from him and, therefore, if the employer's action is held to be illegal and bad, such employer cannot escape from suffering the consequences."

18. In that view of the matter, Petitioner shall therefore be entitled to full backwages for the entire period from the date of her termination until she is reinstated from the date of she having been ousted from the School i.e. from 28.02.2019. It is directed that full backwages shall be paid to the Petitioner along with interest at the rate of 9% per annum by the Management of Respondents - Trust after adjusting the amount, if any, been paid to the Petitioner under the impugned order. All amounts due and payable as directed hereinabove shall be paid by Respondent Nos. 1 to 9 to the Petitioner within a period of 2 weeks from today positively.

19. All parties to act on a server copy of this order.

20. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

21. After this Judgment is pronounced, learned Advocate for Respondents – Trust has persuaded the Court to allow the Respondents Management four weeks' time to pay the backwages to Petitioner alongwith interest as directed. The request made by the learned Advocate for Respondents stands accepted by Court.

22. Learned Advocate for Respondents has also persuaded me to grant stay in addition to the above to the impugned judgment to enable the Management of the Trust to test the validity and legality of the impugned judgment in the Superior Court. Considering the strong facts in the present case and the ignominy of Petitioner before me, I am not inclined to adhere to the request made for stay by learned Advocate for Respondents. Hence, request made for stay of this judgment stands declined.

[MILIND N. JADHAV, J.]

Ajay

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