

Date of Filing :- 07/05/2015
Date of Registration :- 15/06/2015
Date of Decision :- 18/03/2026
Duration :- Y. M. D.
10 09 03

IN THE COURT OF PRESIDING OFFICER, SCHOOL TRIBUNAL,
NASHIK.
(Before : S. K. Bangad.)

Appeal No: 29/2015 (Nashik).

Exhibit No.53.

Mr. Vilas Uttamrao Patil,
Age: 46 yrs, Occ.: Nil,
R/o. A/P-Shirsondi, Tal. Malegaon,
Dist. Nashik.

---- **Appellant.**

-Verses-

- 1] **The President,**
Vidyasagar Shikshan Prasarak
Sanstha, Nashik,
N9/B3/10-3, Shivaji Chowk, Old
CIDCO, Nashik.
- 2] **The Secretary,**
Vidyasagar Shikshan Prasarak
Sanstha, Nashik,
N9/B3/10-3, Shivaji Chowk, Old
CIDCO, Nashik.
- 3] **The Head Master,**
Saraswati Vidyalay Shirsondi,
Tal. Malegaon, Dist. Nashik.
- 4] **The Education Officer (Secondary),**
Zilla Parishad, Nashik.

---- **Respondents.**

Coram:- S. K. Bangad, Presiding Officer.

Adv. for appellant. : Mr. S. D. Gangurde.
Adv. for respondent Nos.1 to 3 : Mr. V. K. Pathak/Mr. A. A. Malpani.
Respondent No. 4 : Exparte.

Appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (The MEPS Act).

J U D G M E N T

(Delivered on 18th March, 2026.)

By way of filing appeal, the appellant has prayed for setting aside the impugned order dated 06.04.2015 w.e.f. 08.04.2015, terminating his services, and has further sought a direction to the management of the respondent institute to reinstate him on his original post of Head Master, with continuity of service, full back wages, and all other consequential benefits attached to the said post.

In short, appellant's case is as under :

2] Respondent No. 1, namely Vidyasagar Shikshan Prasarak Sanstha is a registered educational institution running Saraswati Vidyalay Shirsondi in which appellant was employed. Respondent Nos. 1 & 2 are respectively the President and Secretary of the above institute. Respondent No.3 is the Head Master of the above school. Respondent No. 4 exercises supervisory control over the affairs of respondent Nos. 1 to 3.

3] The appellant stated that respondent No.1 institute started respondent No.3 school in the year 1993-1994 without obtaining any permission and continued the same till the academic year 1998-1999. In the academic year 1999-2000 the competent authority has granted permission to start 8th standard on non-grant basis and accordingly by natural growth the permission for standard 9th to 10th were granted. Thereafter, the respondent No.3 school started receiving grant from the academic year 2004-2005 onwards and from the academic year 2007-2008 the school started receiving 100 % grants.

4] Appellant has stated that he possesses the qualifications of M.A. and B.Ed. Initially the appellant was working with the respondent management from the academic year 1993-1994 to 1997-1998 though the school was run without any permission and at the relevant time the appellant was working without any salary. Therefore, the appellant left respondent No.3 school and joined with the another school and worked there for the academic year 1998-1999. At the relevant time the President of respondent No.1 institute Shri. Raghunath Tulsiram Borse requested the appellant to join the respondent No.3 school. The President being cousin of appellant and considering his request the appellant joined with respondent institute from June 1999 as Assistant Teacher. The appellant being duly qualified, having sufficient experience and being senior most Assistant Teacher was given charge of Head Master and from that date itself the appellant was working as in-charge Head Master with respondent management.

5] The appellant has stated that respondent No. 3 was not receiving government grants and, therefore, the respondent management could not pay salaries to the appellant and other employees during the said period. From the academic year 2004-2005 onwards, grants were sanctioned and the management started paying salaries to the employees, including the appellant, from the grant amounts received from time to time. The respondent No. 1 institute commenced 11th and 12th standard classes for the science faculty in the academic years 2008-2009 and 2009-2010. The President of the respondent management illegally collected fees from students through the teachers without the knowledge of the appellant, who was the Head Master. As such collection was not permitted by the competent authorities, the appellant could not issue receipts. Being aggrieved, the President thereafter filed a criminal complaint against the appellant and other employees.

6] The appellant stated that the President failed to succeed in the aforesaid complaints. As the appellant, being the Head of the school, refused to comply with the illegal directions of the President, the President decided to remove the appellant from service and, with that intention, initiated a departmental inquiry on false, concocted and imaginary allegations. Consequently, the services of the appellant were illegally terminated by order dated 06.04.2015 w.e.f. 08.04.2015 after holding the said inquiry. Hence, the appellant is constrained to file the present appeal on the following grounds:

7] The appellant has further stated that the respondent management issued a charge-sheet dated 09.08.2014 without following the procedure prescribed under Rules 36 and 37 of the MEPS Rules. The charges leveled against the appellant do not constitute misconduct, negligence, or dereliction of duty, and therefore the management had no authority to initiate the inquiry on such charges. It is further contended that the President of the inquiry committee, Mr. Raghunath Tulsiram Borse, bore personal grudge against the appellant. The state awardee Head Master, Mr. R. M. Ambekar, aged about 70 years, was allegedly not mentally fit, and therefore his appointment on the committee was illegal. The management appointed a Presenting Officer; however, the appellant was not given an opportunity to nominate his defence representative. In these circumstances, the appellant prayed that the appeal be allowed and the order of dismissal be set aside.

8] Respondent Nos. 1 to 3 filed reply at Exh. 19 opposing the claim of the appellant. They contended that the appellant was working as the Head Master of respondent No. 3 school and had committed misappropriation during his tenure. Accordingly, after conducting a departmental inquiry, his services were terminated on 06.04.2015. It is further contended that the inquiry was conducted in accordance with the principles of natural justice. The appellant allegedly collected fees of Rs. 7,200/- from students without issuing receipts, thereby misappropriating the said amount. The inquiry committee was constituted as per Rules 36 and 37 of the MEPS Rules, and its first meeting was held on 16.10.2014. The appellant

nominated Shri Chandrashekhar Shelar as his representative on the inquiry committee.

9] The respondent management further stated that sufficient opportunity was given to the appellant to defend himself. During the pendency of the inquiry, the appellant was paid suspension allowance from time to time and all relevant documents pertaining to the inquiry were supplied to him. The inquiry committee held a total of 39 meetings, out of which the appellant remained absent for 10 meetings and his nominee remained absent for 25 meetings. The appellant and his nominee did not cooperate with the inquiry and deliberately remained absent with an intention to prolong the proceedings. The appellant failed to maintain proper accounts of the fees collected from students and thereby committed misappropriation. The said charges were proved before the inquiry committee. Therefore, after conducting due inquiry, the respondent management rightly terminated the services of the appellant. Hence, the respondent management has prayed for dismissal of the appeal with costs.

10] Record shows that notice was duly served to respondent No. 4. However, he failed to appear in this matter. Hence, appeal is proceeded “exparte” against respondent No. 4.

11] Considering the pleadings of the parties, following points arise for my determination and I have recorded my findings there upon for the reasons to be followed :

Sr. No.	Points	Findings
1	Whether the appellant has established that the inquiry conducted by the management against him is unfair ?	In the affirmative.
2	Whether the appellant has established that the punishment of termination from service is disproportionate ?	In the affirmative.
3	What order ?	As per final order.

R E A S O N S

As to point Nos. 1 to 3 :-

12] Appellant has alleged that whatever misappropriation has been committed was done by the President of the respondent management and on the contrary, respondent management has alleged that the appellant was Head Master and he is responsible for the misappropriation committed in the school.

13] The respondent management has initiated departmental inquiry against the appellant. In pursuance of the said inquiry, charge-sheet was issued to the appellant on 09.08.2014 (Exh.25/1). In the said letter, it is mentioned that charge-sheet is issued to the appellant as per Rule 36 (1) of MEPS Rules. Rules 36 (1) speak for issuance of statement of allegation. Said charges were replied by the appellant on 21.08.2014 (Exh.25/3). Thereafter, the appellant was given letter on 06.09.2014 to appoint his nominee in the inquiry committee (Exh.25/5). Accordingly, the appellant has nominated

Shri. Chandrashekhar J. Shelar as his representative by letter dated 23.09.2014 (Exh.25/8). Thereafter, charge-sheet was issued to the appellant on 29.09.2014 (Exh.25/10). Said charge-sheet was replied by the appellant in detail on 13.10.2014 (Exh.25/11). So, at this point of time, the respondent management has followed the due procedure for initiating departmental inquiry against the appellant.

14] The inquiry proceedings is produced by the respondent management on record. On perusal of charge-sheet issued to the appellant, many charges are leveled against the appellant including the charge of misappropriation of amount. The President of respondent management has filed criminal complaint against the appellant in the court bearing M.A.No.379/2013. The said complaint is dismissed under section 203 of Code of Criminal Procedure. Revision filed against said dismissal order is also dismissed. The police have filed "B" summary as no complaint is made out against the present appellant and hence the report was accepted by the court.

15] When the departmental inquiry was initiated, the respondent management has supplied the list of witnesses. The first meeting of the inquiry was held on 16.10.2014. Accordingly, the respondent management has examined its witnesses and the appellant has also examined his witnesses during the inquiry. The appellant has stated that the state awardee head master has taken active part in the inquiry by asking questions in the cross-examination to the witness of the appellant. So, the appellant has

stated that the principles of natural justice were not followed during the inquiry. Though the termination order is challenged by way of appeal. But, the re-appreciation of the evidence recorded during the departmental inquiry is not possible. It is to be seen whether the procedure prescribed in Rule 36-37 MEPS Rules are followed or not. On perusal of entire record, the inquiry was conducted in total 38 meetings and opportunity of hearing was given the appellant.

16] Appellant has raised objection on the ground that the list of state awardee head master is not produced on record. The name of state awardee head master was communicated to the appellant and he has replied the same. So, the appellant was well aware about the state awardee head master. After completion of inquiry, the further explanation was called from the appellant on 13.03.2015. The same was tendered by the appellant on 20.03.2015. Thereafter, the last meeting was held on 31.03.2015. The representative of the appellant was absent in the said meeting. But, the representative has sent his report with his Peon and the same was taken on record by the committee. The committee members submitted their final report in the said meeting and was made known to the appellant. Accordingly, the committee has held that the charges leveled against the appellant are proved. Those charges were serious in nature and amounting to misappropriation of money. So, the punishment of termination was proposed and accordingly the order of termination dated 06.04.2015 was issued to the appellant.

17] The appellant in support of his contentions, has relied upon following authorities at Exh.51 :

I] **Rattan Lal Sharma -V/s- Managing Committee, Dr. Hari Ram (Co0education) Higher Secondary School and others, [AIR 1993 SC 2155]**, wherein it is held that if a person has pecuniary interest, such interest, even if very small, disqualifies such person. For appreciating a case of personal bias or bias to the subject matter. The test is whether there was real likelihood of a bias even though such bias has not in fact taken place.

II] **Head Master, Vivek -V/s- Alka Namdeo Khalekar & others, [2017 (2) Bom. C. R. 701]**, wherein the Hon'ble High Court has held that if the inquiry is vitiated then fresh inquiry can be initiated from the stage at which the inquiry has been vitiated.

III] **Lok Shikshan Sanstha, Nagpur -V/s- Gajanan Devidas Dalal and others, [2009 (2) Mh. L.J. 823]**, wherein the Hon'ble High Court has held that the delinquent employee should be given the right of cross-examination of the witnesses and defend himself properly.

IV] **Kashiram Rajaram Kathane -V/s- Bhartiya R. B. Damle Gram Sudhar Tatha Shikshan Prasar Society and others, [1997 (3) Mh. LJ 235]**, wherein the Hon'ble High Court has held that a reading of rule 37 (6) shows that the committee constituted was the inquiring authority as well as the final decision making authority in the sense that the management's role was only to implement the decision of

the inquiry committee. The President had demonstrated bias as well as interest and yet participated in the decision making process.

V] **Kumar Ram Nandan -V/s- M/s. Fluid Power (P) Ltd., and others, [II CLR 269 H.C.]**, wherein the Hon'ble High Court has held that the domestic inquiry is to be conducted by following the rules of natural justice and it should not be an empty formality.

VI] **President/Secretary Dhanvantari Medical & Education Foundation and other -V/s- Sangale Raosaheb Narayan and others, [2024 (4) Bom.C.R.355]**, wherein it held that non supplying the list of witnesses by the management and recording of witnesses without cross-examination by the delinquent employee is held vitiating the trial as there is non compliance of MEPS Rules.

18] The respondent management in support of its contentions, has relied upon following authorities at Exh.52 :

A] **Shikshan Prasarak Mandal and others -V/s- Ramesh Bhimrao Narayankar and others, 2016 (3) B. C. R. 1**, wherein the Hon'ble High Court has held that teacher or headmaster on whom State/National Award is conferred and who is chosen as third member of inquiry committee under MEPS Rules, can be a retired teacher or headmaster.

B] **Mahohar Pandit Marathe -V/s- President, Sharda Vidya Prasarak Mandal and others, 2014 (4)Mh. L.J. 556**, wherein the Hon'ble High Court has observed that Rules 36 & 37 not followed by

employer while conducting inquiry against petitioner. Employer directed to pay suspension allowance with liberty to conduct fresh inquiry.

19] Considering the inquiry proceedings, the rules are followed by the inquiry committee and opportunity was given to the appellant during the inquiry. So, the principles of natural justice are followed during the inquiry. He was given chance to file his further explanation and the same was availed by the appellant.

20] Appellant has stated that the President of the management was biased and having interest in terminating the appellant from service. He has stated that the charges leveled against him were vague and not proved in the departmental inquiry. On perusal of witnesses examined during the departmental inquiry, it reveals that the extra fee was collected upon the instructions of the President of respondent management. The witness has also stated that the fee was collected on the instructions of the President because the salary was paid from that amount. The respondent management has examined their witnesses and the questions were put by convener as well as state awardee head master to him. Before that the appellant has stated that he wanted to examine many other witnesses, but his part of witnesses was closed on the ground that the inquiry has been prolonged by the appellant for examination of witnesses. During the cross-examination of witness examined by the management, it is brought on record that the said witness was appointed without the appropriate qualification. Appellant has

pointed this part of deposition to show that the witness was close to the president and interested in terminating the appellant.

21] The respondent management has examined the teacher Shri. Navale who was appointed in the year 2012 and his wife was also present as a witness, but was not examined. Thereafter, the auditor Shri. Chandrakant Pawar was examined. The said witness has not deposed about the misappropriation by the appellant. The main charge against the appellant was with respect to the misappropriation committed by him by collecting excess fees from the students and not giving the account of the same to the management. So, the entire burden was upon the respondent management to prove the charges leveled against the appellant.

22] On perusal of the inquiry proceeding, it is seen that the inquiry committee has asked the appellant to prove his innocence and thereafter without giving opportunity to examine his witnesses have closed his side and examined the witnesses of respondent management. The convener and state awardee head master have submitted their final report. They have stated that the amounts collected from the students were deposited in the account maintained by the school. On perusal of witnesses examined by the respondent management, they have not stated that the amounts were collected by the appellant or the teachers on instructions of the appellant. On the contrary, on perusal of findings given by the inquiry committee, they have stated that the appellant has not produced any evidence to substantiate his contentions and hence the

charges are proved against the appellant. So, the inquiry committee has submitted their report on the basis of no negative evidence produced by the appellant. So, the findings given by the inquiry committee are totally against the provisions of law considering the evidence on record. The inquiry committee was predetermined on their findings and relied upon the evidence adduced by the appellant instead of taking support of the evidence produced by respondent management. Hence, on this count the findings of inquiry committee are not in accordance with the principles of natural justice and hence liable to be set aside.

23] The inquiry was conducted in the year 2015 and the report was submitted on 31.03.2015. So, almost 11 years have passed and hence the matter cannot be sent back for re-inquiry. Accordingly, the order of termination issued to the appellant on the basis of the report submitted by the inquiry committee is illegal and liable to be set aside. The appellant has been kept out of service for more than 11 years without proving any charge against him. There was no fault on the part of appellant and hence, he is entitled for continuity in service.

24] The appellant has also prayed for full back wages from the date of termination. The appellant has placed reliance upon the ratio laid down in the case of **Deepali Gundu Surwase -V/s- Kranti Junior Adhyapak Mahavidyalay (D. Ed.) and others, [2014 II CLR 813]**, wherein the Hon'ble Apex Court has held that once the employee shows that he was not employed, the onus lies on the

employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments. So, the employee is entitled for back wages.

25] Respondent management has not produced any document to show that the appellant was in gainful employment after the order of termination was passed. So, the respondent management has stated that initial burden is on employee and he has to show that he was not gainfully employed. It is thereafter that the employer can bring on record materials to rebut the claim of employee. There is no any fault on the part of appellant when the order of termination was issued. The appellant has prayed for back wages, but has not pleaded with respect to back wages in the appeal memo. Now, it is necessary to consider that the respondent management is the Trust and imparting education to the children. There is rule of “no work no pay” which is also required to be considered while deciding the issue of back wages. As it is held, that the order of termination is itself illegal, in such circumstances, the appellant is entitled for back wages. It is admitted fact that the appellant was not in service since 2015 and 11 years have passed. Considering the fact that the respondent management is Trust, the back wages to the extent of 25 % would meet the ends of justice. Accordingly, I answer point Nos. 1 and 2 in the affirmative and as to point No.3, I proceed to pass following order :

: O R D E R :

01] The appeal is partly allowed with costs.

- 02] The order of termination of services of appellant dated 06.04.2015 passed by the management of respondent institute is hereby set aside.
- 03] The management of respondent institute is directed to reinstate the appellant on his original post i.e. Head Master with continuity in service. The management of respondent institute is further directed to pay 25 % back wages to the appellant from the date of termination of services till his reinstatement.
- 04] The management of respondent institute shall comply the order within 40 days from the date of order.

(S. K. Bangad,)
Presiding Officer, School Tribunal,
Nashik Region, Nashik.

Date: 18/03/2026.

Argued on	: 18/03/2026.
Judgment dictated on	: 18/03/2026.
Judgment checked & signed on	: 18/03/2026.