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

Appeal No: 114/2016 (Nashik).

Exhibit No.36.

Sau. Manasi Milind Ghamandi,
Age: 50Years, Occ.: Nil,
R/o. B. No.10, Git Gopal, Indraprasth
Colony, Upanagar, Nashik-6.

---- **Appellant.**

-Verses-

- 1] **The Chairman,**
Icchamani Vidyamandir Education Society,
Upanagar, Nashik.
(Notice be served upon the Chairman)
- 2] **The Chairman,**
Icchamani Ganesh Mandir Trust,
Upanagar, Nashik.
- 3] **The Head Master,**
Icchamani Vidyamandir,
Indraprasth Colony, Upanagar,
Nashik-6.
- 4] **The Administrative Officer,**
Municipal Corporation, Education Board,
(Rajiv Gandhi Bhavan), New Pandit Colony,
Municipal Corporation Building, Nashik.

---- **Respondents.**

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

Adv. for appellant : Mr. V. K. Pathak/Mr. A. A. Malpani.
Adv. for respondent Nos.1 to 3 : Mr. S. D. Gangurde.
Adv. for respondent No. 4 : Without Reply.

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

:J U D G M E N T:
(Delivered on 18th March, 2026)

This appeal has been filed for setting aside the termination order dated 28.02.2014. The appellant has further prayed for her reinstatement with continuity of service, full back wages, and all consequential benefits attached to the post.

In short, appellant's case is as under :

2] Respondent Nos. 1 and 2 are the registered educational institution and it runs primary and secondary school respectively. Both the trusts are different. Though respondent Nos. 1 & 2 run respondent No.3 school, but said school has two separate sections i.e. primary section and secondary section. Said school is recognized by the government.

3] Appellant has stated that she possess the qualification of B.A., C.T.C. & B.Ed. Thus, appellant is a trained graduate teacher. Initially, respondent management has appointed appellant in the year

1994 in the Kindergarten section. Since June 1994 to March 1996 appellant has worked in the said section. Thereafter, appellant was working as a Assistant Teacher in the primary section of respondent's school. She was teaching the students of 5th to 7th standard of primary section. Thus, appointment of appellant was made by following due procedure of law and she became a permanent teacher. During the tenure of service, the respondent management continuously harassed the appellant. In fact, appellant wanted to acquire the D. Ed. degree, but the respondent management did not cooperate the appellant. Hence, appellant could not acquire the D. Ed. degree. More so, though appellant was working since the year 1994, the respondent management did not send her individual proposal to the concerned authority for seeking approval to her appointment.

4] Appellant has stated that the respondent management has not properly maintained the service book of the appellant. Though the appellant was working since 1994, the respondent management has terminated her services vide order dated 26.02.2014. The appellant has rendered near about 20 years of service with the respondent management. Respondent management has not extended any opportunity to the appellant before terminating her service. All of sudden from 01.03.2014 her signatures were not obtained in regular muster but it was obtained in separate register. Till getting approval to her appointment, she was directed not to sign on regular muster. She was regularly working in the school. Surprisingly she received notice dated 15.04.2014 from respondent

management. At the relevant time she came to know that she has been terminated from services. Prior to that she had not received any letter through RPAD. She has given reply to the notice on 25.04.2014. She has worked in the school of respondents for 20 years. After receipt of letter dated 05.05.2014 along with copies of the two cheques, she has not received any amount. Thus, the respondent management cheated the appellant. Considering the aforesaid reasons, the appellant has prayed to allow the appeal.

5] Respondent Nos.1 and 3 have filed reply at Exh.14 and denied contentions in appeal. According to the respondent management, appeal is bad for misjoinder of necessary parties. Respondent No.2 is not concerned with affairs of the respondent No.1. Respondent No.2 has been made party to the appeal without any reason. In such situation appeal is not tenable. More so, the appellant was not the permanent employee of the respondent management. Initially, appellant was working in the pre-primary section since 1994 to July 2000. At the relevant time, said section was under the control of the management of Icchamani Mandir Trust. Hence, the appointment order given in the year 1997 to the appellant was signed by the Chairman of respondent No.2. Thereafter, since August 2000, the appellant was working in the respondent No.3 school, which is run by respondent No.1. Hence, thereafter from August 2000, the respondent No.2 is not concerned with the services of appellant. More so, the pre-primary section does not come under the provisions of MEPS Act.

6] Respondent management has further stated that in fact appellant was not holding the requisite qualification and there was no vacant post available with the respondent management. But the husband of appellant Shri. Milind Ghamandi was the trustee. Hence, by taking inadvertent benefits of the position of husband, the appellant was illegally appointed as a Assistant Teacher in the primary section. Thus, the appointment of the appellant was not made by following due procedure of law. Thereafter, the proposal for approval to the appointment of appellant was sent to the respondent No.4, but the said authority vide letter dated 24.01.2014 has rejected the said proposal for want of requisite qualification. Hence, the services of appellant were terminated vide order dated 26.02.2014 w.e.f. 28.02.2014. Respondents have tried to give termination order personally to the appellant. However, appellant has refused to take said termination order. Therefore, it has sent termination order by RPAD. But appellant has refused to accept said termination order. Considering the aforesaid reasons, respondent Nos. 1 & 3 have prayed for dismissal of appeal with costs.

7] Respondent No.2 has filed reply at Exh.13 and stated that present appeal is barred by the misjoinder of necessary party. The respondent No.2 has been unnecessarily made party to this appeal as he is not concerned with affairs of school. Hence, prayed for dismissal of the appeal on the said ground.

8] Record shows that notice was duly served to respondent No.4. But respondent No. 4 failed to file say. Hence, the present appeal has been proceeded 'without reply' against respondent No. 4

9] Considering the pleadings of both the sides and submissions of the learned advocates appearing for respective parties, following points arise for my determination of this appeal 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 she was appointed by following due procedure of law ? | In the affirmative. |
| 2 | Whether the appellant has established that the school management has illegally terminated her services vide order dated 28.02.2014 ? | In the affirmative. |
| 3 | What order ? | As per final order. |

R E A S O N S

As to point Nos. 1 to 3 :-

10] Appellant has produced the documents with respect to her educational qualifications. She has produced the certificate by which she was granted Shiksha Visharad certificate by Allahabad University. As per government resolution dated 05.04.2006, the state of Maharashtra has passed order stating that the Shiksha Visharad qualification be termed as equivalent to B. Ed. qualification. She has

produced her appointment order dated 13.07.1997 (Exh.4/7) by which she was given appointment as Assistant Teacher for the period of 13.07.1997 to 12.07.1999. It is mentioned in the said letter that she was given the appointment on the basis of her application and the interviews conducted by the responded management.

11] The respondent management has raised objection upon the appointment of the appellant on the ground that her husband was trustee and has used the post of trustee to give the appointment order to the appellant. The appointment order was issued to the appellant in the year 1997 and the respondent management has not produced any document to substantiate their contention. Said appointment letter is signed by the Chairman of the trust and he has not raised any objection as stated by the respondent management. The appellant was in service since 1997 till 2014 and the respondent management has not even issued any notice to the appellant on the said ground. On the contrary, the appointment order reveals that the appellant had applied for the post and she was selected from the interview conducted by the respondent management. So, the objection on the ground of husband of appellant being trustee is not sustainable.

12] Respondent No.2 has stated that they are not concerned with the appeal and hence the appeal be dismissed for misjoinder of necessary party. On perusal of reply filed by respondent Nos. 1 & 3, it is stated that the respondent No.2 has given appointment order to the appellant in the year 1997. The appointment order bears the

signature of Chairman of respondent No.2 trust. Hence, the respondent No. 2 is made party to the appeal. Even otherwise the entire appeal cannot be dismissed on the said ground.

13] The respondent management has stated that the appellant was not holding the requisite qualification and hence her appointment itself is illegal. Appellant is relying upon the certificate issued by the Hindi Sahitya Sammelan, Prayag stating as Shiksha Visharad (Exh.4/5). She is also relying upon the Maharashtra government order dated 05.04.2006, which states that the Shiksha Visharad qualification is equivalent to B. Ed. qualification. Respondent management has produced the order dated 09.06.2005 (Exh.35/1) passed by government of Maharashtra holding that the teachers who have acquired the equivalent qualification of B. Ed. from the states out of Maharashtra from 10.10.2002 be not approved in service. They have again produced the government order dated 21.12.2011 (Exh.35/2), which affirms the above order.

14] The appellant has stated that she has acquired the equivalent qualification and in support of her contentions has placed reliance upon the following authorities filed at Exh.30 :

1] **Dinkar Sitaram Jadhav -V/s- Shri. Dattatraya Shikshan Sanstha, through its President, Chikhli, Dist. Buldhana and others, Writ Petition No.5208/2007 dated 27.04.2015**, wherein it is held that if the employee holds the equivalent qualifications (CTC certificate examination) as per government resolution dated 01.07.1978 and

circular dated 12.05.1998 then he cannot be terminated from service on this ground. Further it is also held that the employee continued in service beyond the period of probation acquires deemed confirmation under Section 5 (2) of MEPS Act and he cannot be terminated without holding inquiry.

II] **Shriram -V/s- State of Maharashtra and others, 2020 (3) S.C.T.332**, wherein the Hon'ble Supreme Court has held that neither MEPS Act nor rules framed thereunder mandate grant of approval by Education Officer as a condition precedent to a valid order of appointment. Requirement of approval which relates to disbursement of grant in aid is a matter between management and state and want of approval will not in valid order of appointment.

III] **Sou. Rekha Damodar Joshi -V/s- State of Maharashtra and others, 2011 (2) Mh. L.J.786**, wherein, it is held that there was no upper age limit provided in respect of women having previous experience and the woman teacher will get relaxation in age limit.

15] In the present appeal, the appellant is working in the primary school since 08.08.2000. The issue in dispute is with respect to the qualification of the appellant. Whether the appellant was holding the requisite qualification to be appointed as Assistant Teacher is to be seen. She was holding the qualification of B.A., C.T.C., B.Ed. She has acquired the Shiksha Visharad qualification from the state of Uttarpradesh. Said qualification is held to be equivalent to B.Ed. qualification of state of Maharashtra. This fact is

supported by various government resolutions produced on record by the appellant. The respondent management has terminated the service of the appellant on the ground that she is over aged and does not possess requisite qualification.

16] On perusal of Rule 9 related to appointment of staff in the school, sub-rule (4) is related to the age limit for appointment to any post in the school and it states that for an appointment to be made to any post in a primary school a candidate shall not be less than 18 years and more than 28 years of age. Provided that upper age-limit may be relaxed in case of women, with the previous permission of the Deputy Director. In the present case, the appellant was having experience of teaching in the same school, but the age limit relaxation was not approved by the Deputy Director. So, before terminating the appellant on this ground, opportunity should have been given to the appellant to get the approval from the Deputy Director. Without giving any opportunity to the appellant, the respondent management has straight way issued the order of termination. Hence, same needs to be set aside. So, that the appellant would get opportunity to get the approval of the Deputy Director for her relaxation in age.

17] The termination order is also issued on the ground of not having the requisite qualification. As stated above, the government resolutions of state of Maharashtra hold the Shiksha Visharad qualification obtained from other states as equivalent to the B.Ed. qualification. So, on this count also, the order of termination is illegal

and accordingly set aside. Even otherwise, the appellant has worked with the respondent management for many years and she could not be terminated from service without giving any notice or opportunity of hearing. So, the order of termination issued by the respondent management is against the MEPS Rules and accordingly set aside.

18] Appellant has prayed for reinstatement in service with continuity. As held above, the order of termination is held to be illegal and accordingly set aside. So, the appellant is entitled for the benefits of continuity in service from the date of termination till the date of her reinstatement.

19] Appellant has prayed for full back wages, but has not pleaded any relevant material to claim the back wages. She has not stated that he tried to find another job, but could not get the job. Respondent management has not produced any document to show that the appellant was in gainful employment after the order of termination was passed. It is necessary to consider that the respondent management is the Society 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 2014 and 12 years have passed. Considering the fact that the respondent management is society, the back wages to the extent of 50 % 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 28.02.2014 passed by the management of respondent institute is hereby set aside.
- 03] The management of respondent institute is directed to reinstate the appellant on her original post with continuity in service. The management of respondent institute is further directed to pay 50 % back wages to the appellant from the date of termination of services till her retirement i.e. 31.07.2022.
- 04] As per Section 11 (2) (f) of the MEPS Act, the respondent management is directed to prepare the pension case of appellant and forward the same to the concerned education department immediately. If they failed to do so, the respondent No.4. shall take appropriate steps for preparation of pension case of appellant.
- 05] 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.

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