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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11769 OF 2022

Sunil Madhukar Kamble

.. Petitioner

**Versus**

The Presiding Officer, School Tribunal & Ors.

.. Respondents

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- Mr. Laxman Kalel, Advocate i/by Mr. Deepak Sathe for Petitioner.
- Ms. Vaishali Nimbalkar, AGP for Respondent Nos.1, 2 and 5 – State.
- Mr. M.T. Pise, Advocate for Respondent Nos.3 and 4.

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**CORAM : MILIND N. JADHAV, J.**

**DATE : APRIL 01, 2026.**

**P.C.:**

1. Heard Mr. Kalel, learned Advocate for Petitioner and Ms. Nimbalkar, learned Advocate for Respondent Nos.1, 2 and 5 - State and Mr. Pise, learned Advocate for Respondent Nos.3 and 4.

2. Present Petition impugns the judgment and order dated 15.02.2022 passed by the learned Presiding Officer, School Tribunal, Pune whereby Appeal No.55 of 2019 filed by Petitioner came to be rejected.

3. Briefly stated, the present dispute pertains to alleged illegal and oral termination of Petitioner from the post of Assistant Teacher by Respondent No.3 – Management on 17.11.2019. Petitioner states that he was appointed as an Assistant Teacher in the School run by Respondent No.3 and rendered continuous and uninterrupted service

from 01.06.2002 till date of his alleged termination on 17.11.2019. Petitioner is duly qualified, holding degrees of Bachelor of Arts and Bachelor of Education (B.A., B.Ed.) and belongs to Scheduled Caste category.

**3.1.** According to Petitioner, his appointment was made pursuant to an advertisement published in the daily newspaper 'Lokmat' and Petitioner was appointed on a clear and vacant post by issuing appointment order dated 01.06.2002. It is case of Petitioner that after appointment, Petitioner joined service and continuously worked as Assistant Teacher without any break for 17 years.

**3.2.** Petitioner contends that he satisfactorily completed the probation period and thereby acquired status of permanent employee in the service of Respondent – Management. Petitioner asserts that during the course of his employment, he discharged duties not only in Primary Section but also in the Secondary Section of the School and participated in various academic activities including evaluation of examination papers and training programs conducted by Educational Authorities.

**3.3.** Petitioner relies upon various documents such as his appointment order, experience certificates issued by the Head Master, attendance letters issued by the Block Education Officer and certificates issued by the Deputy Director of Education to establish his

continuous service with Respondent Nos.3 and 4. Petitioner contends that State Government issued Government Resolution dated 08.03.2019 granting 20% grant-in-aid to Ashram Schools including the School run by Respondent No.3 and Petitioner is therefore eligible for the said benefit.

**3.4.** It is case of Petitioner that despite rendering long and continuous service, services of Petitioner were terminated orally on 17.11.2019 without issuing any notice, conducting any enquiry and without following due process of law.

**3.5.** Being aggrieved, Petitioner preferred Appeal No.55 of 2019 before the learned Presiding Officer, School Tribunal, Pune on 03.12.2019 under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short “**MEPS Act**”).

**3.6.** Petitioner contends that though relevant documents were placed on record, learned Presiding Officer failed to properly appreciate the same and erroneously held that the Primary Ashram School is not covered under the provisions of the MEPS Act.

**3.7.** Learned Presiding Officer, School Tribunal, Pune by judgment dated 15.02.2022 rejected the Appeal on the ground of lack of jurisdiction holding that the provisions of MEPS Act are not applicable to Primary Ashram Schools.

4. Mr. Kalel, learned Advocate for Petitioner would submit that the impugned judgment and order passed by the learned Presiding Officer, School Tribunal, Pune is wholly erroneous, illegal and unsustainable in law.

4.1. He would submit that the learned Presiding Officer has failed to properly appreciate the documentary evidence placed on record, particularly the appointment order which clearly indicates that Petitioner was appointed on a clear and vacant post and not on temporary basis.

4.2. He would submit that the findings recorded by the Tribunal that Petitioner was working only in Primary Ashram School is contrary to the material on record, inasmuch as Petitioner has placed sufficient documents to demonstrate that he had discharged duties in Secondary Section of the School.

4.3. He would submit that Petitioner rendered long and continuous service of about 17 years and therefore the action of Respondent – Management in terminating his services orally without following the due process of law is arbitrary, illegal and in violation of the provisions of the MEPS Act and Rules framed thereunder.

4.4. He would submit that the learned Presiding Officer has erred in holding that the provisions of the MEPS Act are not applicable, without considering that the School run by Respondent No.3 consists

of both Primary and Secondary Sections functioning in the same campus. He would submit that the impugned judgment proceeds on erroneous assumption that Petitioner has failed to establish his service in Secondary School whereas the material on record clearly indicates otherwise.

4.5. He would submit that Respondent – Management having continued Petitioner in service for a long period cannot now be permitted to deny status of permanency to Petitioner or dispute the nature of his appointment. He would submit that findings recorded by the learned Presiding Officer suffer from non-application of mind inasmuch as relevant documents produced by Petitioner have not been considered in their proper perspective.

4.6. He would submit that once it is established that termination of Petitioner is illegal, Petitioner is entitled to reinstatement with continuity of service and back wages and denial of the same defeats the very object of the beneficial legislation.

4.7. Lastly, he would submit that the impugned judgment is based on misreading of evidence and incorrect interpretation of law and therefore deserves to be quashed and set aside.

5. **PER CONTRA**, Mr. Pise, learned Advocate for Respondent Nos.3 and 4 - Management would submit that the present Writ Petition is wholly misconceived, untenable in law and liable to be dismissed at

the threshold. He would submit that Petitioner was never appointed on a clear, vacant and permanent post in accordance with the mandatory provisions of Section 5 of the MEPS Act as alleged by him and therefore no enforceable legal right accrues in favour of Petitioner.

**5.1.** He would submit that it is a settled position of law that an appointment made dehors the statutory provisions does not confer any right of continuation or protection and such an employee cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

**5.2.** He would submit that Petitioner was initially appointed as a Sports Teacher in the Primary Ashram School on purely temporary basis for a fixed tenure from 01.06.2002 to 30.04.2003 and thereafter again from 05.06.2003 to 30.04.2004 and the said appointments were conditional and subject to grant of sanction by the Competent Authority. He would submit that in absence of recognition and sanction at the relevant time, the appointment of Petitioner was purely stop-gap and contractual in nature and automatically came to an end by efflux of time.

**5.3.** He would submit that upon expiry of his tenure on 30.04.2004, services of Petitioner stood discontinued and therefore the question of termination in violation of principles of natural justice or statutory provisions does not arise. He would submit that Petitioner

has falsely and deliberately claimed that he continued in service till 17.11.2019 without producing any evidence of his appointment order, continuation order or salary record to substantiate such purported claim.

**5.4.** He would submit that case of Petitioner is based on misleading pleadings and suppression of material facts and therefore the Petition deserves to be dismissed on the ground of lack of *bonafides*. He would submit that Petitioner was at all times appointed only in the Primary Ashram School and never in the Secondary School and the attempt to project otherwise is a complete afterthought to bring his case within the ambit of the MEPS Act.

**5.5.** He would submit that the documents relied upon by Petitioner, particularly the alleged experience certificate dated 08.06.2009 are fabricated, bogus and have not been issued by any Competent Authority. He would submit that the said certificate does not bear proper authentication and on the date mentioned therein, the alleged signatory was not even holding the post of Head Master thereby rendering the document illegal and bogus.

**5.6.** He would submit that the Primary Ashram School in question was initially established in the year 2002 subject to grant of permission under the Central Government Scheme for residential schools for Scheduled Caste students and was conducted on non-grant basis. He

would submit that Government Resolution dated 13.01.2006 granted permission to run the School subject to terms and conditions and on 09.01.2007 recognition to the Primary School up to 7<sup>th</sup> standard was granted by the Education Officer (Primary), Zilla Parishad, Pune.

**5.7.** He would submit that even after such recognition, the institution continued as a Primary Ashram School and did not fall within the definition of “private school” as contemplated under Section 2(20) of the MEPS Act. He would therefore submit that provisions of MEPS Act are not applicable and Appeal filed by Petitioner under Section 9 before the School Tribunal was not maintainable.

**5.8.** He would submit that it is settled legal position that employees working in Primary Ashram Schools do not have a remedy under Section 9 of the MEPS Act and cannot invoke the jurisdiction of the School Tribunal. He would submit that the learned Presiding Officer, School Tribunal has rightly appreciated the entire evidence on record and recorded a categorical finding that Petitioner was working only in the Primary School.

**5.9.** He would submit that findings recorded by the Tribunal are pure findings of fact based on appreciation of documentary evidence and do not warrant interference in writ jurisdiction unless shown to be perverse. He would submit that no perversity or illegality has been demonstrated by Petitioner in the impugned judgment.

5.10. He would place reliance upon the judgment in the case of *Suryakant Shesharao Panchal Vs. Vasanrao Naik Vimukta Jati Bahatakyia Jamati Adarsha Prasarak Mandal and Ors.*<sup>1</sup> and submit that the Ashram School imparting education up to primary level does not fall within the ambit of “private school” and employees therein cannot approach the School Tribunal.

5.11. He would further place reliance upon the judgment in the case of *Dagadu Vs. President, Anandrao Naik Shikshan Prasarak Mandal and Others*<sup>2</sup> and submit that the appropriate remedy, if any, lies before the Social Welfare Authorities and not before the School Tribunal.

5.12. He would rely upon the detailed Affidavit-in-Reply dated 11.12.2023 filed by Shri Dilip Narayan Londhe, Respondent No.3 and the President of the Respondent School. He would submit that the said Affidavit clearly demonstrates that Petitioner was engaged only for fixed and limited tenures, namely from 01.06.2002 to 30.04.2003 and thereafter from 05.06.2003 to 30.04.2004 and that no appointment order was issued thereafter, thereby completely falsifying his claim of continuous service till 2019.

5.13. He would submit that the Affidavit clearly establishes that Petitioner accepted the notice dated 29.04.2004 informing him that his

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<sup>1</sup> 2002 (3) Mh.L.J.659

<sup>2</sup> 2006 DGCL (SC) 202

services had come to an end and thereafter he was never in employment of the Respondent – Management. He would submit that the Affidavit categorically denies the claim of continuous service of 17 years and asserts that Petitioner has failed to produce any documentary evidence to support such claim.

**5.14.** He would submit that the Affidavit further clarifies that the alleged experience certificate dated 08.06.2009 is a fabricated document procured using a false stamp and signature. He would submit that it is also specifically stated that on the relevant date, the alleged signatory was not the Head Master and therefore the certificate cannot be relied upon.

**5.15.** He would submit that the Affidavit further clarifies that the Primary and Secondary Ashram Schools are two distinct institutions having separate administration, separate Head Masters and separate UDISE numbers. He would submit that Petitioner was never appointed in the Secondary School at any point of time. He would submit that the Affidavit also highlights that the administrative control over Ashram Schools has been vested in the Social Welfare Department as per Government Resolution dated 26.07.2010. He would submit that in view of the said position, the remedy, if any, for the Petitioner's grievance lied before the appropriate Authority in the Social Welfare Department.

5.16. He would submit that the learned School Tribunal has rightly considered the documentary evidence as well as the applicable legal provisions and correctly concluded that it lacked jurisdiction. He would submit that the Tribunal has rightly answered all issues against the Petitioner and dismissed the Appeal.

5.17. He would submit that Petitioner has failed to establish any legal right, much less a fundamental or statutory right, so as to invoke the extraordinary jurisdiction of this Court. He would submit that the present Writ Petition thus suffers from acquiescence, suppression of material facts, lack of *bonafides* and absence of any legal entitlement. He would submit that no interference is warranted with the well-reasoned and legally sound judgment dated 15.02.2022 passed by the School Tribunal, Pune in Appeal No. 55 of 2019. He would accordingly submit that the Writ Petition be dismissed with costs.

5.18. Respondent No.3 has filed Affidavit-in-Reply dated 14.12.2023 sworn by Shri Dilip Narayan Londhe, President of Respondent No.3 – Management opposing the present Writ Petition and supported the impugned judgment passed by the learned School Tribunal, Pune. I have considered the same.

6. I have heard Mr. Kalel, learned Advocate for the Petitioner; Ms. Nimbalkar, learned AGP for Respondent Nos.1, 2 and 5 - State and Mr. Pise, learned Advocates for Respondent Nos.3 and 4 and with their

able assistance perused record of the case. Submissions made by learned Advocates have received due consideration of the Court.

7. At the outset, it is necessary to note that the present Writ Petition challenges the impugned judgment and order passed by the learned Presiding Officer, School Tribunal, Pune, whereby the Appeal preferred by Petitioner came to be rejected on the ground of lack of jurisdiction by holding that the provisions of the MEPS Act are not applicable to Primary Ashram Schools.

8. The principal contention of Petitioner is that he was appointed as an Assistant Teacher on 01.06.2002 and has rendered continuous and uninterrupted service till his alleged date of termination i.e. 17.11.2019 and therefore his services could not have been terminated without following the due process of law as contemplated under the provisions of the MEPS Act and Rules framed thereunder.

9. It is the specific case of Respondents that Petitioner was appointed only for limited and fixed tenures, namely from 01.06.2002 to 30.04.2003 and thereafter from 05.06.2003 to 30.04.2004 and that no appointment order was issued thereafter. It is further contended that Petitioner was never appointed in the Secondary School and was at all times working only in the Primary Ashram School, which does not fall within the ambit of “private school” under Section 2(20) of the

MEPS Act.

**10.** It is well-settled that in order to invoke the jurisdiction of the School Tribunal under Section 9 of the MEPS Act, two essential conditions must be satisfied, namely: (i) the institution must fall within the definition of “private school” as contemplated under Section 2(20) of the MEPS Act, and (ii) the employee must establish a valid and subsisting appointment in accordance with the statutory provisions.

**11.** On careful examination of the material placed on record, it is evident that Petitioner has primarily relied upon the initial appointment order dated 01.06.2002 and certain experience certificates and other documents to establish continuous service till 2019. However, apart from the said initial appointment order, no subsequent appointment orders, continuation orders or salary records have been produced to substantiate uninterrupted service for a period of about 17 years.

**12.** Respondents have specifically disputed the authenticity of the documents relied upon by Petitioner, particularly the experience certificate dated 08.06.2009 and have contended that the same is fabricated and not issued by the concerned Competent Authority. It is further pointed out that the alleged signatory to the said certificate was not holding the post of Head Master on the relevant date.

13. In the absence of any cogent and reliable documentary evidence to establish continuous service, the claim of Petitioner that he worked uninterruptedly from 2002 till 2019 cannot be accepted merely on the basis of disputed documents. What is of greater significance is the nature of the institution in which Petitioner claims to have been employed. The material on record, including the Affidavit-in-Reply and Government Resolutions dated 13.01.2006 and 26.07.2010 clearly indicate that the Primary Ashram School is governed by the Social Welfare Department and operates under a distinct statutory and administrative framework.

14. The contention of Petitioner that since both Primary and Secondary sections are functioning in the same campus, the provisions of the MEPS Act would automatically apply to both Schools, cannot be accepted. The record clearly demonstrates that the Primary and Secondary Ashram Schools are administratively distinct institutions having separate management, separate Head Masters and separate UDISE numbers.

15. The learned Presiding Officer, School Tribunal has upon appreciation of the material on record, recorded a categorical finding that Petitioner was employed only in the Primary Ashram School. The said finding is based on documentary evidence and does not suffer from any perversity.

16. It is a settled position of law that employees working in Primary Ashram Schools do not fall within the ambit of the MEPS Act and consequently cannot invoke the jurisdiction of the School Tribunal under Section 9 of the MEPS Act. In this regard, reliance placed by the Respondents on the judgments in the cases of *Suryakant Shesharao Panchal Vs. Vasanrao Naik Vimukta Jati Bahatakya Jamati Adarsha Prasarak Mandal* (supra) and *Dagadu Vs. President, Anandrao Naik Shikshan Prasarak Mandal* (supra) is apposite.

17. Once it is held that the provisions of the MEPS Act are not applicable, the very foundation of the Appeal preferred by Petitioner before the School Tribunal stands vitiated for want of jurisdiction. In that view of the matter, the learned Presiding Officer, School Tribunal was justified in holding that the Appeal filed by Petitioner was not maintainable. The findings recorded by the Tribunal in paragraph Nos.11 to 27 of the judgment dated 15.02.2022 are based on proper appreciation of evidence and settled legal principles and are upheld.

18. No perversity, illegality or jurisdictional error has been demonstrated by Petitioner so as to warrant interference under Article 226 of the Constitution of India.

19. In the facts and circumstances of the present case, this Court is of the considered opinion that Petitioner has failed to establish his continuous service as alleged and has further failed to bring his case

within the ambit of the MEPS Act so as to invoke the jurisdiction of the School Tribunal.

**20.** In view of the aforesaid observations and findings, the order dated 15.02.2022 passed by the learned Presiding Officer, School Tribunal, Pune in Appeal No.55 of 2019 does not call for any interference. The judgment dated 15.02.2022 is upheld and confirmed.

**21.** Writ Petition is dismissed.

**[ MILIND N. JADHAV, J. ]**

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