

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 184 of 2023

Shri Mutum Shyamo Singh, aged about 58 years,
s/o (L) M. Lukhoi Singh of Thoubal Kiyam Siphai,
P.O. & P.S. Thoubal, Thoubal District, Manipur-795138

.... Petitioner

- Versus -

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1. The State of Manipur represented by the Commissioner, Education (S), Government of Manipur, Old Secretariat Complex, Babupara, Imphal – 795001.
2. The Director, Education (S), Lamphelpat, Imphal West District, Manipur-795008.
3. The Zonal Education Officer, Zone-III Thoubal, Mini Secretariat, Thoubal D.C. Complex, Thoubal-795138.
4. The Secretary, School Management Committee, Tangjeng Ningthou High School (Aided), P.O. & P.S. Thoubal, Thoubal District, Manipur – 795138.

.... Respondents

With

WP(C) No. 376 of 2021

Shri Mutum Shyamo Singh, aged about 58 years, s/o (L) M. Lukhoi Singh of Thoubal Kiyam Siphai, P.O. & P.S. Thoubal, Thoubal District, Manipur-795138

.... Petitioner

- Versus -

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1. The State of Manipur represented by the Commissioner, Education (S), Government of Manipur, Old Secretariat Complex, Babupara, Imphal – 795001.
2. The Director, Education (S), Lamphelpat, Imphal West District, Manipur-795008.
3. The Zonal Education Officer, Zone-III Thoubal, Mini Secretariat, Thoubal D.C. Complex, Thoubal-795138.
4. The Secretary, School Management Committee, Tangjeng Ningthou High School (Aided), P.O. & P.S. Thoubal, Thoubal District, Manipur – 795138.
5. T. Bheigyachandra Singh, aged about 53 years, s/o. (L) T. Thambou Singh of Kiyam, P.O. & P.S. Thoubal, Thoubal District, Manipur-795138.

.... Respondents

With

WP(C) No. 66 of 2019

Shri T. Bheigyachandra Singh, aged about 53 years, s/o. (L) T. Thambou Singh of Kiyam, P.O. & P.S. Thoubal, Thoubal District, Manipur- 795138.

.... Petitioner

- Versus -
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1. The State of Manipur through Commissioner/Secretary(Education/S), Government of Manipur, Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
2. The Director, Directorate of Education (S), Government of Manipur, P.O. & P.S. Lamphel, Imphal West District, Manipur-795001.
3. The Zonal Education Officer, Zone-III, Thoubal, Government of Manipur, P.O. & P.S. Thoubal, Thoubal District, Manipur -795138.
4. The Secretary, the School Managing Committee Tangjeng Ningthou High School (Aided), P.O. & P.S. Thoubal, Thoubal District, Manipur – 795138.

..... Respondents

5. Mutum Shyamo Singh, aged about 53 years, s/o. (L) M. Lukhoi Singh, a resident of Thoubal Kiyam Siphai, P.O. & P.S. Thoubal, Thoubal District, Manipur.

.... Private Respondent

JUDGMENT & ORDER [CAV]

19.12.2025

[1] Heard Mr. A. Mohendro, learned counsel appearing for the petitioner, Mrs. Ch. Sundari, learned GA for the State respondents and Mr. Th. James, learned counsel appearing on behalf of the School Management Committee (SCM).

[2] The present writ petition is preferred by the petitioner inter-alia challenging the impugned show cause order dated 10.06.2022 issued by the ZEO, Zone-III, Thoubal and his suspension order dated 15.06.2022 issued by the Secretary, Tangjeng Ningthou High School coupled with prayers for releasing his pending pay and allowances and the formation of the School Management Committee. For convenience sake, the prayer of the petitioner is reproduced as under:-

- i) to admit the writ petition;
- ii) issue rule nisi and call for records;
- iii) issue a writ of mandamus directing the respondents to pay the monthly salary of the petitioner from November 2018 to August 2020 (22 months), March 2021 to December 2021 (10 months) and January 2022 to January 2023 (13 months), total 45 months and thereafter direct the respondents to regularly pay the monthly salary etc;
- iv) issue a writ of certiorari thereby quashing/setting aside the School Management Committee formed vide Order dated 13.01.2020, Order dated 10.03.2021 as well as the School Managing Committee wherein Y. Umakanta is the Secretary;

v) direct the authority to constitute a new school managing committee as per the Manipur Education Code;

vi) issue a writ of certiorari thereby quashing/setting aside the show cause notice dated 10.06.2022, order dated 15.06.2022 of the ZEO, Zone-III, Thoubal and order dated 15.06.2022 of the Secretary, Tangjeng Ningthou High School, and

in the interim to direct the respondents to pay the monthly salary of the petitioner and to pass any other appropriate interim order in the facts and circumstances of the case.

[3] During the course of the proceedings, Mr. Th. James, learned counsel appearing for the School Management Committee (R4) raised the question of maintainability of the writ petition on the ground that in terms of the provisions of the Government Aided School Teacher (Discipline, Punishment & Appeal) Rules, the petitioner had not approached the competent authority, and accordingly the present writ petition ought to be dismissed.

[4] On the other hand, Mr. A. Mohendro, learned counsel appearing for the petitioner, submits that the provisions cited by the learned counsel for the School Management Committee is not applicable in as much as the provisions relied upon relates to punishment to be given by a valid management committee in terms of an enquiry, and whereas in the present case, the enquiry is still pending and thus, the said provisions are inapplicable in the present case of the petitioner.

[5] Upon hearing both the submissions of the contesting Id. Counsel, this Court vide order dated 21.10.2024 opined that the following issues arose in the present writ petition:

(i) Whether the writ petition is maintainable against the suspension order passed by the School Management Committee in view of the provisions of the Government Aided Private School Teacher (Discipline, Punishment and Appeal) Rules or not?

(ii) Whether the provisions of CCS (CCA) Rules with respect to the suspension especially the period prescribed in Rule 10 of the CCS (CCA) Rules will be applicable in the suspension order issued under Rule 2 of the aforesaid Pension Rules or not?

(iii) Whether the School Management Committee constituted in the year 2021 is validly constituted or not?

(iv) Whether the suspension order issued by a School Management Committee, not duly constituted, is valid or not?

[6] In the present order, this Court is examining the question of maintainability of the writ petition in view of the availability of alternative remedy under the statute. For better appreciation of the rival contentions, the provisions of the Government Aided Private School Teachers (Discipline, Punishment and Appeal) Rules are reproduced herein as under:

“SECTION –III

Government Aided Private School Teachers (Discipline, Punishment and Appeal) Rules :

No employee of an Aided School shall be dismissed, removed, suspended, discharged from Service or awarded punishment except in accordance with the following rules:-

1. The following penalties may, for good and sufficient reasons and as here-in-after provided be imposed on a teacher in a Government Aided Private School, namely:-

- i) Censure*
- ii) Withholding of increments.*

- iii) *Withholding of promotion.*
- iv) *Recovery from pay of the whole or part of any pecuniary loss caused to the school by negligence, fraud or misappropriation of school fees and funds.*
- v) *Reduction to a lower stage in the time scale.*
- vi) *Compulsory retirement.*
- vii) *Termination of service.*

Explanation: The following shall not amount to a penalty within the meaning of this rule.

- i) *Stoppage*
- ii) *Retirement of a teacher in accordance with the provisions relating to his super annuation or retirement.*
- iii) *Replacement of an unqualified teacher (not approved by the Director of Education) by a qualified one.*
- iv) *Discharge of a teacher appointed in a short-term officiating vacancy caused by grant of leave, suspension etc.*

Explanation: The termination of the service of a teacher who has satisfactorily completed the period of probation will be treated as punishment, unless the necessity for the post has ceased to exist in the meanwhile.

2. Suspension: The Managing Committee of a school may, with the prior consent of the Inspector of Schools in respect of High Schools, Deputy Inspector of Schools in respect of M.E. Schools and Assistant Inspector of Schools for other Schools, suspend teacher where disciplinary proceedings against him are contemplated or are pending or where a case against him in respect of any criminal offence is under investigation or trial. An order under this rule may be revoked by the authority which made the order or by the Director of Education.

3. Punishing Authority: 1) The punishing authority in respect of Government Aided Private School teacher shall comprise (i) the Chairman of the Managing Committee of the School (ii) The Secretary/Manager of the Managing Committee (iii) a nominee of the Director of Education (not below the rank of Inspector of Schools in respect of High Schools, Deputy Inspector of ME Schools and Assistant Inspector of Schools for other Schools if the case is against the Head of the School.

The punishing authority may except the Headmaster or Principal of the School where action is proposed to be taken

*against a teacher of the School, he shall however have no right
.....*

2. The punishing authority may impose any of the penalties specified in Rule 1.

4. Procedure for imposing minor penalties: No order imposing any of the penalties specified clauses (i) to (iv) of Rule 1, shall be passed except after:

a) The teacher is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity to make any representation he may wish to make.

b) Such representative, if any, is taken into consideration by the punishing Authority.

5. Procedure for imposing major penalties: No order imposing on a teacher any of the penalties specified in clauses (v) to (vii) of Rule 1, shall be passed except after inquiry, hold as far as may be, in the manner as indicated below-

a) The punishing authority shall frame definite charges on the basis of the allegations on which the enquiry is proposed to be held. Such charges together with a statement of the allegations on which they are based shall be communicated in writing to the teacher and he shall be required to submit within such time as may be specified by the Punishing Authority but not later than two weeks a written statement of his defence and also to state whether he desires to be heard in person.

b) On receipt of the written statement of defence or if no such statement is received within the time specified the Punishing Authority may itself enquire into such of the charges as are not admitted or, if it considers it necessary to do, appoint an enquiring officer for the purpose.

c) At the conclusion of the enquiry, the Enquiring Authority shall prepare a report of the enquiry, recording its findings on each of the charges together with reasons therefore.

d) The Punishing Authority shall consider the record of the enquiry and record its findings on each charge. If the Punishing Authority is of the opinion that any of the penalties specified in clauses (v) to (vii) should be imposed, it shall:-

i) Furnish to the teacher a copy of the report of the enquiry Authority; and

ii) Give him a notice stating the action proposed to be taken in regard to him and calling upon him to submit within a specified time not exceeding two weeks such representation as he may wish to make against the proposed;

iii) On receipt of the representation, if any made by the teacher as aforesaid the punishing authority should determine what penalty, if any should be imposed to the teacher and pass appropriate orders on the case.

6. *Appellate Authority:* All appeals against orders of the punishing authority will be heard by an Appellate Tribunal consisting of the Director of Education (Chairman) and two non-official members, (i) Secretary of an Aided School and (ii) a Principal/Headmaster of an Aided School to be nominated by the Government and the Principal/Headmaster of a school to which the dispute relates shall not function as members of the Appellate Tribunal when that case is heard.

7. *Appeals:*

(i) No appeal shall lie against any order of punishment specified in clause (i) of Rule 1.

(ii) A teacher may make an appeal to the Appellate Tribunal against an order of the management which denies or varies to his disadvantage his pay, allowances and other conditions of service.

(iii) No appeal shall lie against the Order of appellate Tribunal.

8. *Period of Limitation for appeal:* No appeal shall be entertained unless it is submitted within a period of thirty days from the date on which the appellate receives a copy of the order appealed against.

Provided that the Appellate Tribunal may entertain the appeal after the expiry of the said period if it satisfied that the appellant had sufficient cause for not submitting the appeal in time.

9. *Consideration of Appeal:* In the case of an appeal against an order imposing the penalties (ii) to (vii) specified in Rule 1, the Appellate Tribunal shall consider:

a) Whether the procedure prescribed in these rules has been complied with and if not whether such non-compliance has resulted in denial of justice.

b) Whether the findings are justified; and

- c) *Whether or inadequate and pass orders:*
 - i) *Setting aside, reducing, confirming or enhancing the penalty; or*
 - ii) *Remitting the case to the authority which imposed the penalty with such directions as it may deem fit in the circumstances of the case provided that,*
 - a) *No order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making representation which he may wish to make against the enhanced penalty.*
 - b) *The Appellate Tribunal shall not impose any enhanced penalty which the Authority, which made the order appealed against, is not competent in the case to impose.*

In the case of an appeal against any order specified in sub-rule (iii) of rule 7, the appellate tribunal shall consider all circumstances of the case and pass order as it deems just and equitable.

[7] The petitioner in the present writ petition *inter-alia* challenges his suspension order dated 15.06.2022 issued by the Secretary, Tangjeng Ningthou High School, which as per Rule 2 of the Government Aided Private School Teachers (Discipline, Punishment and Appeal) Rules (*supra*) is contemplated where disciplinary proceedings against a teacher are contemplated or are pending or where a case against him in respect of any criminal offence is under investigation or trial. Rule 2 thus, stands in contradistinction with Rule 1 of the said Government Aided Private School Teachers (Discipline, Punishment and Appeal) Rules (*supra*) which provides for penalties which may be imposed by the punishing authority under Rule 3 in as much as ‘suspension’ as a mode of penalty is neither prescribed in Rule 1 or in the explanations provided thereto. Mr. A. Mohendro, learned counsel for the petitioner presses into assistance the decisions of Hon’ble Supreme Court in the cases of **Rajasthan Electricity Board v. Union of India: (2008) 5 SCC 632** and **State of UP v. Ehsan: AIR 2023 SC 5124** to emphasise the point that availability of alternative remedy is not a rule of absolute bar to the remedy under Article 226 of the Constitution.

[8] In other words, it is only when the punishing authority under Rule 3 of the Rules (*supra*) proceeds under the prescribed procedure laid out in Rule 4 or 5 against the petitioner to impose any of the penalties given in Rule 1, only then the petitioner would have locus to move an appeal under Rule 7 before the appellate authority/appellate tribunal so described in Rule 6. It is submitted that as no penalty has been imposed against the petitioner, the appeal under the aforesaid rules will not be available to the petitioner and hence the present writ petition is maintainable.

[9] Coming to the argument of Mr. Th. James, learned counsel appearing for the School Management Committee (R4) that the alternative remedy as contained in the Government Aided School Teacher (Discipline, Punishment & Appeal) Rules must be exhausted before approaching invoking the writ jurisdiction, he relies on the decisions of Hon'ble Apex Court in the cases of **M/s Radha Krishna Industries v. State of Himachal Pradesh: AIR 2021 SC 2114** and **Veerapa Pillai v. Raman & Raman Ltd.: AIR 1952 SC 192** which held that specific provisions under the relevant statute have to be exhausted first before invoking the writ jurisdiction under Article 226 of the Constitution. This Court finds it trite to point out that availability of alternative remedy is not an absolute bar to approaching the writ court under Article 226, but rather a rule of discretion as has been well-settled by catena of decisions of the Hon'ble Supreme Court. Even if presuming that such an alternative remedy to exists as alleged by learned counsel for R4, it is noted that the present writ has been instituted challenging not only the suspension order of the petitioner but *inter-alia* the very legality of the constitution of the School Management Committee and the *vires* of such a committee to issue the suspension order of the petitioner. The authority has not imposed any penalty to the petitioner so as to invoke the remedy of appeal under the rules. Accordingly, this Court finds no reason to

relegate the present writ petitioner to the alleged alternate remedy under the Government Aided School Teacher (Discipline, Punishment & Appeal) Rules.

[10] In light of the discussions qua the factual position highlighted above, this Court is of the considered view that the present writ petition is maintainable against the suspension order passed by the School Management Committee.

[11] List the writ petitions and connected matters on **16.01.2026** for further proceedings.

JUDGE