IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.7917 OF 2024

1. Shrinath Shikshan Prasarak Mandal,
Kordechiwadi, Tq. Kaij, District Beed.
Through its President
Shivaji Kashinath Rakh,
Age 62 years, Occu. Agri.,

2. Shrinath Shikshan Prasarak Mandal,
Kordechiwadi, Tq. Kaij,
Through its Secretary,
Rohini Pratap Rakh,
Age 49 years, Occu. Secretary and Household,
R/o Kordechiwadi, Tq. Kaij, District Beed.

3. Subhadrabai Madhyamik Vidhyalaya
Balepeer Lokshanagar, Nagar Road,
Beed. Through its Head Master,
Alka Mahadev Munde,
Age 50 years, Occu. Service. ...Petitioners

Versus

1. Meera Pandurang Gilbile,
Age 32 years, Occu. Service,
R/o Chinchwan, Tq. Wadwani,
District Beed. … (Orig. Appellant)

2. Education Officer (Secondary),
Zilla Parishad, Beed … Respondents

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Shri. P. R. Katneshwarkar, Senior Advocate
i/by. Shri. Abhijeet V. Thombre, Advocate for the Petitioners.
Shri. K. N. Lokhande, AGP for the State.
Shri. Subodh Shaha a/w. Shri. Amol B. Chalak,
Advocate for Respondent No.1

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CORAM : NEERAJ P. DHOTE, J.
Reserved on : 06/07/2026
Pronounced on : 21/07/2026

JUDGMENT :-

. Impugned in the present Writ Petition under Article 227 of the Constitution of India is the Judgment and Order dated 22.04.2024 passed by the learned Presiding Officer, School Tribunal, Latur (for short, 'Tribunal') in Appeal No.45/2022 filed under the provisions of Maharashtra Employees of Private Schools [Conditions of Service] Regulation Act, 1977 (hereinafter referred to as the 'MEPS') setting aside the otherwise termination order dated 15.06.2018 and directing reinstatement of Respondent No.1 (hereinafter referred to as the 'Teacher') in the services as the 'Assistant Teacher' with continuity of service and all consequential benefits and directing payment of full back-wages from the date of termination till reinstatement. The parties are hereinafter referred as per their nomenclature.

2. The facts giving rise to the present Petition are that, the Teacher filed the above referred Appeal before the learned Tribunal contending that, she was qualified as H.S.C. D.Ed., which was the requisite qualification for the post of 'Assistant Teacher'. She was physically disabled person. Pursuant to the advertisement in the local newspaper, she applied for the post of 'Assistant Teacher' and came to be selected and appointed by order dated 10.11.2010 on probation for two (2)

years. The Education Officer granted approval by order dated 25.09.2012 with effect from 10.11.2010. She successfully completed her probation period. The Education Officer granted permanent approval to her services in view of the provisions under Section 5 of the MEPS by order dated 05.12.2012 with effect from 20.11.2012. Till June–2013 she discharged her duties in Subhadrabai Madhyamik Vidhyalaya and thereafter the Management asked her to work at the Lalbahaddur Shastri Primary School as both the said schools were run by the same Management. Till 01.05.2018, she worked with the said Lalbahaddur Shastri Primary School. Her attendance was taken on the separate muster roll. She signed various *Goshwaras* during her services at the Lalbahaddur Shastri Primary School. In 2017, she discharged the election duty for the Maharashtra State Legislative Council Elections for the teachers constituency from the Aurangabad Division. She worked continuously without any break till her oral termination i.e. 15.06.2018. In May-2018, she was asked by the Management to join Subhadrabai Madhyamik Vidhyalaya, Beed, and when she went to the said establishment for resuming duties, the Management asked her to submit the *Tachan* Books and asked her not to attend the school. The Management did not give her salary. The said school - Subhadrabai Madhyamik Vidhyalaya was to receive 20% grant-in-aid from the Government by resolution dated 02.07.2016. She was not allowed to sign the muster roll. She preferred several representations to the

Management, Headmaster and also approached the Education Officer raising her grievance. She was threatened by the Management. On 05.10.2018 and 06.10.2018 she filed the complaints with the Superintendent of Police, Beed and Zilla Parishad, Beed, respectively. On 06.10.2018, the Education Officer issued notices to all the parties for hearing. On 12.10.2018 the President and the Secretary of the Management did not appear for hearing and the next date given was 30.10.2018. As nothing fruitful had come out and she was illegally terminated without due process, she filed the said Appeal and prayed to quash and set aside the otherwise termination order and prayed for reinstatement with the full back salary and the consequential service benefits.

3. The Management and the Headmaster filed their Written-statement before the Tribunal. They denied the contentions of the Teacher. The Teacher did not come with the clean hands and suppressed material facts. The Management never issued appointment order to the Teacher. The Teacher prepared bogus record of the appointment. The approval orders were fabricated. Enquiry was necessary to ascertain authenticity of the approval orders. The muster/s of the schools from 2010 till 2018 do not show the name of the Teacher as she never worked in the said schools. The Teacher by joining the hands with the Zilla Parishad – Authorities obtained the bogus approval orders. It was revealed that, no such approval order was issued by the

Education Officer. In Writ Petition No.2629 of 2020 which was filed by the another employee of the Management, the Teacher filed intervention application. This Court imposed cost on the Education Officer in connection with the termination of the Teacher. On the basis of false orders, the Teacher was claiming to be the employee of the Management. They prayed that the Appeal be dismissed with costs and enquiry be directed to verify the authenticity of the approval orders.

4. The Education Officer filed the Reply contending that, there were 9 sanctioned posts with the said Subhadrabai Madhyamik Vidhyalaya, Beed. However, 10 employees were appointed. One employee was excess. The Teacher was granted approval on unaided post on 10.11.2010 and from 20.11.2012 she was granted permanent approval. On the complaints dated 18.08.2018, 01.09.2018, 10.09.2018 and 24.09.2018 filed by the Teacher, the hearing was kept on 06.10.2018 and 14.10.2018. Due to some difficulties and on the Application from the Management, hearing could not take place.

5. The learned Tribunal framed the points for determination, heard the parties and on the basis of the material available on record, passed the impugned Judgment and order as referred above.

6. Heard the learned Senior Advocate for the Management and the Headmaster (Petitioner No.3), the learned Advocate for Respondent

No.1 - Teacher and the learned AGP for Respondent No.2 – Education Officer. With their assistance, perused the papers on record.

A) The learned Senior Advocate for the Management and the Headmaster referred to the previous orders in the Writ Petition and the Reply Affidavit filed by the Education Officer, wherein it is stated that 'outward numbers corresponding to the approval orders of the teacher were not in the inward and outward register of the office of the Education Officer'. It is further stated that, 'the approval might have been issued through Special Approval Camp'. He submitted that, the approval orders were bogus. It is nowhere the case of the Teacher that, she was appointed in the camp. The Management filed the Application before the learned Tribunal to get the record of the Teacher, however the said Application came to be rejected and the same was challenged by the Management in Writ Petition No.3000 of 2024 which came to be dismissed with the observations that, '*so called documents sought to be produced from the custody of Respondent No.2 – Education Officer were not in existence'*. The learned School Tribunal allowed the Appeal on the basis of the approval order. There was no advertisement by the Management for the post of 'Assistant Teacher'. No appointment order was issued by the Management in favour of the Teacher and there is no record of the approval to the appointment of the Teacher. The Say of the Education officer before the learned Tribunal was that, there was no vacancy on the said schools which were managed by the Management.

There was no compliance of the provisions of law as the Teacher was not duly appointed and the School Tribunal did not consider the matter in its right perspective. He submitted that, the Petition be allowed and the impugned order be quashed and set aside. In support of his submissions, he relied on the following decisions:

(i) Vibhuti Shankar Pandey vs. State of M.P. and Others, [2023 (2) Mh.L.J. 357]

(ii) Priyadarshini Education Trust and Others vs. Ratis (Fafia) Bano d/o. Abdul Rasheed and others, [2007 (6) Mh.L.J. 667]

(iii) Jaimala Bhaurao Ramteke vs. Presiding Officer, School Tribunal Nagpur andOthers, [2009 (5) Mh.L.J. 333]

(iv) Prakash Babarao Shingane vs. Janta Education Society, Chausala, and Others, [2022 (1) Mh.L.J. 243]

(v) Vilas Laxman Gavai vs. Dnyandeo Uttamrao Dhandar and others, [2017 (6) Mh.L.J. 812]

(vi) State of Bihar and Ors vs. Chandreshwar Pathak, AIR 2014 SC 3752]

(vii) State of Madhya Pradesh and Ors vs. Ku. Sandhya Tomar and Anr, 2013 (1) ALL MR 485 (S.C.).

(viii) Rajendra Vitthalrao Kamble vs. Government of Maharashtra and Others [2012 (4) Mh.L.J. 505]

(ix) Mohd. Ashif and Others vs. State of Bihar and Others, (2010) 5 SCC 475

(x) Chandramani Devraj Tiwari vs. Secretary, Smt. R. B. Tiwari, [2008 (3) Mh. L. J. 274].

(xi) Navjeevan Shikshan Sanstha, Bhishnur and Another vs. Chandrashekhar Anandraoji Rewatkar and others, [2015 (1) Mh.L.J. 782]

B) It is submitted by the learned Advocate for the Teacher that, the Petitioner has come up with the case that, they do not know the Teacher.

Though complaint was filed by the Teacher to the Headmaster and the Education Officer, there was no response to the same. Though Education Officer fixed the matter for hearing, the Petitioners did not attend the same nor filed their Reply. It is for the first time after four (4) years, they are coming with the case that the Teacher was never appointed by them. The Appeal was filed by the Teacher on 31.10.2018 and the Petitioner's filed their reply to the same on 09.03.2022. To support their case, the Petitioners filed Application under the Right to Information Act with the office of the Education officer. Not only this, the Petitioners filed mischievous Application before the learned Tribunal to call the records from the Education Officer. The observation in the order dated 22.03.2024 in Writ Petition No.3000 of 2024 filed by the Management shows that, it was the submission by the Management that, the Application under the RTI Act addressed to the Education Officer for supplying the documents was filed on 15.02.2023 and the Education Officer by his letter dated 11.04.2023 informed that, the documents sought for were not available in the office. He submits that, it is not the case of the Education Officer that, the record did not exist at all. There was no prompt reply by the Management that, the Teacher was not their employee. The belated stand taken by the Petitioner was afterthought. The approval order on record which was by the Education Officer to the Headmaster of the School supports the Teacher's case. There are two approvals, first one after appointment on probation and second one after

successful completion of the probation period. The Teacher discharged her duty on the establishment of Lalbahaddur Shastri Primary School as per the oral directions from the Management. The record shows that, the Teacher's name appeared in the voters list of the Teachers Constituency. Copy of the communication by the Public Information Officer of Zilla Parishad, Beed addressed to the Teacher shows that, in addition to the Teacher, the record of the other Teachers working in the Subhadrabai Madhyamik Vidhyalaya was also not found. The Affidavit of the Education Officer speaks that, there is possibility that, the appointment was given in the Special Approval Camp. In the Affidavit-in-reply by the Education Officer in Writ Petition No.2629 of 2020 which was filed by the another teacher i.e. Sonali Rajendra Nagargoje, it is stated that, the Teacher was working as the Teacher and approval was given by the office of the Education Officer. The record of Subhadrabai Madhyamik Vidhyalaya shows that, the appointment of another Teacher, namely, Sonali Rajendra Nagargoje was subsequent to the present Teacher i.e. on 15.06.2011. It is further submitted that, considering the evidence on record, the learned Tribunal has rightly passed the impugned order and no interference was called for therein. The Teachers shall not suffer, if the Management do not take their stand boldly. The object of the MEPS is to protect the Teachers. In support of his submissions, he relied on the following decisions:

(i) **Talat Shikshan Mandal and Another vs. Aqueela Bano Mohammad**

Moosa and Others, 2009 SCC OnLine Bom 1131.

(ii) **The Secretary, Jan Seva Bhavi Sanstha, Ghatsavali and one another vs. Shankar Nivrutti Tambade and two others, in Writ Petition No.12568 of 2015 with one connected Writ Petition decided on 03.08.2016.**

(iii) **Atul s/o. Vasantrao Warangule vs. Marathwada Shikshan Prasarak Mandal and others in Writ Petition No.11188 of 2024 decided on 25.03.2025.**

C) It is submitted by the learned AGP that, the Education Officer has filed the Reply Affidavit. From the Reply Affidavit, it is clear that, approval was granted by the Education Officer. It was the duty of the Management to pay the Teacher.

7. The Teacher filed the Appeal before the learned Tribunal under the provisions of the MEPS. Undisputedly, the proceedings before the learned Tribunal were governed by the provisions of the MEPS, which was enacted to regulate the recruitment and conditions of service of employees in certain private schools. The Judgments cited by both the sides are relating to the said MEPS and are discussed as under.

(i) In **Vibhuti Shankar Pandey** *(supra)*, '*the employee therein was appointed as the Supervisor on daily rate basis, under a project and he sought regularization on the post of Supervisor/Time Keeper. The employee therein was never appointed against any post and his appointment was never made by the competent authority and there were no posts available at the time for regularization and he set his claim for regularization as persons who were junior to him as daily wagers were regularized. It was held that, the employee had no case for regularisation.*'

(ii) In **Priyadarshini Education Trust** *(supra), 'Respondent No.1 therein was appointed as the teacher by the appellant, which was only for one academic year and on temporary basis and she was further appointed on temporary basis for certain academic years. As there was unrest amongst the staff due to absence of punctuality in payment of salary, there was an enblock oral termination of 13 staff members. 11 staff members approached the School Tribunal and their Appeal came to be dismissed. The provisions of the MEPS and the Judgments were considered'* and was observed that*, 'to claim the benefit of deemed permanency, the Teacher must be duly selected, he must be appointed in clear permanent vacancy, his appointment must not be for a fixed/limited period, and preferably it ought to indicate that the appointment is on probation'.*

(iii) In **Jaimala Bhaurao Ramteke** *(supra), 'the Petitioner therein was working as the Teacher in the School run by the respondent Nos.2 and 4 after appointment as the Assistant Teacher, and her name was incorporated in the muster-roll. It was the contention that, after completion of probation period successfully, her services became permanent and therefore she could not be removed without due inquiry'.* It is further observed that*, 'there was no material on record to suggest that, all the relevant rules and provisions were followed before the appointment of the petitioner and the Education Officer had granted permission to recruit the employee in the permanent vacancy as required under Section 5 of the MEPS. Mere approval to the appointment of the petitioner would not go to resolve the irregularity/illegality committed by the management in the appointment of the petitioner. The Petitioner was continued in the employment by virtue of interim order of the School Tribunal. The Petition was dismissed.'*

(iv) In **Prakash Babarao Shingane, '***the Appellant was appointed as the Teacher. The Deputy Director of Education granted approval to his appointment from certain date. It was the Teachers' case that, the order of approval was fabricated as his date of appointment was different than the one. There was no mention or reference of the approval to the appointment by the School Committee, the Secretary of the School Committee or the Principal. The order was signed by the President'.* It was further observed that*, 'simply because of signature of the Principal on the order, it cannot be inferred that required procedure and compliance of law had gone into before granting approval to the appointment. The appointment order, if read in juxtaposition with the earlier three orders of appointment and the fact that the mandatory procedure required under Section 5 of the M.E.P.S. Act and Rule 9 of the M.E.P.S. Rules was not followed and adhered to, has to be held as illegal appointment order'*.

(v) In **Vilas Laxman Gavai, '***the Petitioner therein was appointed on the post of Peon. Approval was granted to the appointment. As the post of Laboratory Attendant was vacant, respondent no.1 was appointed on the said post. It was the Petitioners contention that, the post of Laboratory Attendant was filled in without any advertisement / interviews and without following the procedure. The Petitioner made representation to the management and requested for his appointment to the post of Laboratory Attendant. The petitioner was promoted to the post of Laboratory Attendant and Education Officer granted approval to the said post. Respondent no.1 filed an appeal before the School Tribunal against his otherwise termination which was allowed'*. It was observed that, '*In view of the decision in* ***Rayat Shikshan Sanstha and another .vs. Yeshwant Dattatraya Shinde*** *[2009 (6) Mh.L.J.476] burden lies on respondent no.1 to show that his appointment was made on a*

clear and permanent post. There was nothing on record to suggest that respondent no.1 was working on a clear and permanent vacant post. In the absence of pleadings and evidence in respect of compliance of sub-section (1) of Section 5 of the MEPS, the appointment of respondent no.1 could not be treated as on probation for a period of two years in terms of sub- section (2) of Section 5 of the MEPS'. It was further observed that, '*the Tribunal committed an error in holding that appointment of respondent no.1 was on a clear and sanctioned post'*. It is observed that, '*there were no pleadings of either parties that lawful recruitment process was followed while giving appointment to respondent no.1. The Petition was allowed'.*

(vi) In **Chandreshwar Pathak** *(supra), 'the Respondent was temporarily appointed to the post of Constable with the stipulation that his service could be terminated without assigning any reason or show cause. In the year 2000, the High Court of Patna considered the issue of backdoor appointments made in the police department in another case which led to a direction by the Department of Home (Police), Government of Bihar to review irregular appointments and to remove such appointees from service. Accordingly, a show cause notice was issued to the respondent-writ petitioner asking him why his appointment should not be cancelled and since no valid reason was shown in reply, order of terminating the services of the respondent was passed. The termination was challenged in the Writ Petition which came to be dismissed. On Appeal the termination was held invalid. The State challenged the same'* and it was observed that*, 'it is a settled legal position that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. For a valid and legal appointment mandatory compliance with the constitutional requirement was to be fulfilled. It was held that, in the absence of any advertisement or selection process, the appointment of*

the respondent was not protected and could be validly terminated'.

(vii) In **Ku. Sandhya Tomar** *(supra)*, '*the learned Single Judge quashed the advertisement inviting the applications for appointment on the post of Project Director. Initial appointment of respondent no.1 was not made on the basis of advertisement in any newspaper whatsoever.'* It was further observed that, '*it is a settled legal proposition that considering the candidature of persons by mere calling of names from the Employment Exchange does not meet the requirement of Articles 14 and 16 of the Constitution of India'.*

(viii) In **Rajendra Vitthalrao Kamble** *(supra), 'the challenge was to the order by the Maharashtra Administrative Tribunal. The applicants before the Tribunal were appointed as Legal Advisors. Their appointments came to an end on expiry of the contractual period. They filed the Application before the learned Tribunal and their prayer for regularization of appointment was not granted. Thus, they filed the Writ Petition. The Writ Petition was dismissed with the observation that, a direction for regularization or permanent continuance of an ad hoc appointee cannot be issued unless the recruitment itself was made regularly and in terms of the constitutional scheme'.*

(ix) In **Mohd. Ashif,** '*the Appellants were initially engaged as Voluntary Health Workers on payment of monthly honorarium and within a period of five months, they were absorbed as Primary Health Workers and their appointments continued for nearly 15 years and then their services were terminated because their promotion/absorption as Primary Health Workers was found to be in breach of relevant circulars. The Single Judge of the High Court held the termination as illegal, but the Division Bench reversed the decision of the Single Judge Bench. The Appeal filed against decision of the Division Bench came to be dismissed*

by observing that, the appointments as Primary Health Workers were totally illegal and violative of Articles 14 and 16 of the Constitution. The Chief Medical Officer who had made the appointments was not vested with the power to do so.'

(x) In **Chandramani Devraj Tiwari** *(supra), the Letters Patent Appeal was filed against the order by the Single Judge dismissing the Writ Petition of the employee concerned, whereby the order passed by the School Tribunal dismissing the employees Appeal was confirmed. The Appellant therein was appointed as Assistant Teacher in Government government aided school in July 1995 on permanent and clear vacancy. However, he was not issued any appointment letter at the time of his appointment. He worked till his termination which took place in October – 1999. He filed the Appeal before the Tribunal.'* It was further observed that*, 'to claim benefits of deemed permanency under Section 5(2) of the MEPS, it was necessary to prove before the learned Presiding Officer that the Appellant was duly selected in the manner prescribed and there was nothing on record before the learned Presiding Officer to show that there was an advertisement inviting applications to which the petitioner had responded and he was subjected to selection process by competition amongst all eligible and desirous candidates. Assuming for the sake of argument that some illegality was committed by mutual consent, that could not in itself confer any legal sanction to the appointment of the appellant.*

(xi) In **Navjeevan Shikshan Sanstha** *(supra), Respondent No.1 who claimed to have been appointed on probation on the post of Assistant Teacher on 06.07.1999 and thereafter was transferred to serve the other institution where he continued to serve on 23.06.2004. Respondent No.1 was not permitted to resume his duties and was orally terminated on 21.09.2004. He preferred the Appeal before the Tribunal which*

allowed the Appeal and directed reinstatement with continuity of service and back-wages. The same was challenged by the Management before the High Court. The Petition was allowed with the observation that, initially burden of placing the advertisement on record was that of Respondent No.1 who approached the School Tribunal challenging his otherwise termination from service and in absence of basic material in the form of permission granted by the Education Officer for filling the post and copy of the advertisement, the finding of the School Tribunal was held to be unsustainable.

(xi-a) The said Judgment in **Navjeevan Shikshan Sanstha** *(supra)* came to be set aside by the Hon'ble Supreme Court of India in **Civil Appeals Nos.842-843 of 2017** (Chandrashekhar Anandraoji Rewatkar vs. Navjeevan Shikshan Sanstha and Others), **MANU/SC/1761/2017-2018 (2) Mh.L.J. 36**.

(xii) In **Talat Shikshan Mandal *(supra),*** *'the Management challenged the order of the School Tribunal wherein reinstatement of Respondent No. 1 was directed with back wages. The institution was minority educational institution. The temporary appointment of Respondent No.1 was continued for some period due to completion of the disciplinary enquiry against Respondent No.3. Respondent No.3 was found guilty in the departmental enquiry and her services came to be terminated. She filed Appeal before the School Tribunal. Her Appeal came to be dismissed and the same was challenged in the Writ Petition. The Management and Respondent No.3 entered into compromise in the said Writ Petition wherein it was agreed that, she would be reinstated in service without payment of back wages. The fall-out of the terms of compromise was that, services of Respondent No.1 came to be terminated. Respondent No.1 filed Appeal before the School Tribunal which came to be allowed. It was the core issue before the High Court*

that, whether the rights were accrued to the respondent No.1 could be extinguished due to mutual settlement between the Management and the respondent No.3. The Judgment in **Priyadarshini Education Trust** (*supra*) *came to be considered by observing that, Respondent No.1 was appointed on vacant and permanent post on probation basis immediately after termination of Respondent No.3*.'

(xiii) In **Shankar Nivrutti Tambade** *(supra), 'the Management challenged the order of the Tribunal. It was the Management's case that, though Respondents / employees were working for 11 years and 6 years, respectively, none of them were appointed by following due procedure laid down in law. There was no advertisement, no interviews and no selection process. It was the case of the Management that, both the Respondents were engaged only because they desired to acquire experience and qualifications and the Secretary, who was also the Head Mistress had illegally issued appointment orders which were not signed by the School Committee. This Court by considering the judgment in* ***Priyadarshini Education Trust*** *(supra) and the factual aspect that the employees were working for several years without any appointment order and they performed their duties during the examination conducted by the School and found that in number of cases the Teachers were employed by the Management for years together and when the relation between the teachers and the Management sours, the Management put forth the plea that the very appointment of the teacher was illegal and further observed that the Management takes undue advantage of its own wrong by orally terminating the teachers and then putting forth a stand before the Tribunal that their very engagement was illegal. The order of the Tribunal was maintained and the Petition came to be dismissed by observing that, the Management cannot be permitted from taking advantage of it's own wrong and thereby exploit the teachers.'*

(xiv) In ***Atul s/o. Vasantrao Warangule*** *(supra), 'the employees were serving with the Management in 2009 and 2011, respectively. The Original appointment orders were not made available.'* It was observed that*, 'if at all the appointments of the petitioners were not made by following due procedure, the management was to be blamed'.* It is further observed that*, 'the management did not place on record any document, which must be in its possession, indicating what procedure was followed for appointing the petitioner. The Petitions of the employees were allowed. They were reinstated with the consequential benefits.'*

8. Coming to the case at hand, the facts and circumstances are distinct. The Teacher's case is that, she was duly appointed by the Management as the 'Assistant Teacher' and the appointment was approved by the Education Officer and thereafter, she was granted permanent approval. According to the Management, the Teacher was never appointed by them and the Teacher prepared false documents of approval. Undisputedly, the Teacher holds requisite qualification for the purpose of 'Assistant Teacher'. The same is supported by the copies of the educational documents. It is nobodies case that, the Teacher was not qualified to the post of 'Assistant Teacher'. The papers indicate that, *vide* communication dated 25.09.2012, the Education Officer granted approval to the appointment of the Teacher on the post of Assistant Teacher for probation of two (2) years from 10.11.2010 pursuant to the resolution by the Management. The said document below Exh.'B' bears outward number of the Education Department of Zilla Parishad, Beed,

and the same is addressed to Petitioner No.3 – School. The said communication gives the reference of the undated letter of Petitioner No.3 – School bearing the outward number 11/2012-2013. The Exh.'C' is the communication by the Education Officer to the Petitioner No.3 – School dated 05.12.2012, granting approval to the appointment of the Teacher as the permanent Teacher after successful completion of two (2) years' probation period. The said communication refers to the resolution from the Management dated 20.11.2012 and also refers to the undated letter from Petitioner No.3 – School bearing outward number 11/2012-2013. The said Exh. 'C' bears the outward number of the office of Education Department of Zilla Parishad, Beed.

9. True it is that, copy of communication dated 11.04.2023 under the signature of the Public Information Officer of Education Department (Secondary), Zilla Parishad, Beed, addressed to the Advocate for the Management, the copy of which is on the record of the Writ Petition, shows that, the Application under the Right to Information Act dated 15.02.2023 was filed and it was informed that the file of the approval to the Teacher was not found in the office. Further, in the Affidavit dated 30.07.2025, the Education Officer (Secondary) of Zilla Parishad, Beed, stated that, outward number of the approval order of the Teacher was 146 dated 25.09.2012 and the number of the permanent approval was 112 dated 05.12.2012 and he wanted to check the record of inward and outward register of the Education Officer (Primary) Zilla Parishad, Beed,

and upon verification found that the outward numbers corresponding to the number to the approval orders of the Respondent No.1 were not in the said register. These aspects will not make the case of the Management probable or acceptable for the reason that the copy of the communication dated 16.08.2024 issued by the Public Information Officer to the Teacher pursuant to her Application dated 12.04.2024 under the RTI Act, shows that the file of approval of the Headmistress - Smt. Alka Mahadeo Munde, Assistant Teacher – Sonali Rajendra Nagargoje, and Assistant Teacher – Shri. Krushna Shriram Mande of the Petitioner No.3 – School were not found in the Office and the similar communication dated 12.04.2024 under the signature of the Education Officer (Secondeary), Zilla Parishad, Beed, addressed to one Pradeep Mahadeo Kotule responding to the Application under the RTI Act, shows that the files of the approval towards appointment on probation period and approval towards permanency of all the staff of the Petitioner No.3 – School were not found in the office. It is, therefore, more than clear that, it is not only Respondent No.1 whose file was not found with the office of the Education Department of Zilla Parishad, Beed. Except bare contention, there is nothing to show that, the said communications were fabricated as alleged by the Petitioners.

10. The papers of the Petition shows that, the Management had filed Writ Petition No.3000 of 2024 against the order, by which the School Tribunal observed that, the Petitioners may call for the

documents from the concerned Department under the Right to Information Act. The said observation was made on the Application filed by the Management before the Tribunal to direct the Education Officer to produce the papers regarding approval of the services of the Teacher. This Court dismissed the said Writ Petition with the observation that, '*when the Petitioners were knowing that the documents were not available with Respondent No.2, he ought not to have filed the similar application. The Petitioner had the knowledge that the documents which he wanted to get produced from the orders of the Court were not in existence. Therefore, he ought to have bring to the notice of this Court or to file a letter dated 11.04.2023 before the Tribunal. Since the Petitioners had knowledge about non existence of the so called documents which were sought to be produced by the order of the Tribunal, the application was frivolous and false. The arguments of the learned Counsel for the Petitioners reveals that they want to produce some evidence to support their contention that the Management never appointed Respondent No.1 (Teacher) and never submitted the papers for approval of her appointment. The burden is on the Petitioner to prove the fact and the law on that point need to be discussed. Be that as it may, the facts came before the Court are that the so called documents sought to be produced from the custody of respondent No.2 by order of the Tribunal are not in existence. Therefore, this way or the otherwise, the impugned order is legal,*

correct and proper. There is no substance in the Writ Petition. Hence, Writ Petition stands dismissed.'

11. At Exh.'D' is the copy of the handwritten mark-sheet and solved papers having name of the students of the School managed by the Management, which according to the Teacher are valued and signed by her. At running page no.255/442/50 is the copy of the form under format – 19 addressed to the Election Officer, Aurangabad Division (Teacher's) Constituency, by the Teacher for inclusion of her name in the voters list for the Teacher's Constituency. There is a certificate under the stamp and signature of the Petitioner No.3 – School certifying that, the Teacher was working in the Petitioner No.3 - School from 10.11.2010 till date i.e. 08.10.2016, which is the date of the said Application. The said Certificate speaks that, out of six (6) years, the Teacher was working continuously for three (3) years on the sanctioned post. Exh.'E' is the copy of Supplement – 1 list of Tal. & Dist. Beed, having title 'Maharashtra State Legislative Council Electoral Roll – 2017, Aurangabad Division Teacher Constituency' and the name of the Teacher is shown at Sr. No.912 and against which the School name is shown as Subhadrabai Madhyamik Vidhyalaya, Beed, i.e. Petitioner No.3.

12. The record shows that, the Respondent No.2 – Education Officer filed Affidavit-in-reply before the learned School Tribunal stating that, the Teacher was working as the Teacher and approval was given by his

office. The papers on record shows that, Writ Petition No.2629 of 2020 was filed by one Smt. Sonali Rajendra Nagargoje against the State of Maharashtra and Others. The Respondent No.2 – Education Officer submitted the Affidavit dated 16.07.2021 stating that the Teacher was working as the Teacher and approval was given by his office and similarly the Petitioner i.e. Sonali Nagargoje was also approved Teacher. The said Affidavit further states that, as per the approved staffing pattern, there were nine (9) approved posts on the school including Headmaster and there were ten (10) persons working. The record of the School Tribunal shows that, the copy of the said Affidavit was brought on record by the Teacher. Papers enclosed to the Writ Petition shows that, the said Writ Petition No.2629 of 2020 which was filed by the said Smt. Sonali Rajendra Nagargoje for directions to release her salary, was disposed of by order dated 17.07.2021. From the observations in para – 6 of the said order, it becomes clear that, the said Petitioner i.e. Smt. Sonali Rajendra Nagargoje was the junior-most teacher in the institution. This makes it clear that, the Teacher was not the junior-most teacher in the institution. Further, the copies of the muster roll of the Petitioner No.3 – School, which admittedly do not show the name of the Teacher, shows the date of appointment of the said Petitioner - Smt. Sonali Rajendra Nagargoje as 15.06.2011, which is admittedly subsequent to the date of appointment of the Teacher shown in the above referred communications at Exhs.'B' and 'C' granting approval to

the appointment of the Teacher. Copies of the said muster-roll are brought on record by the Management to show that, it does not bear the name of the Teacher as the teaching staff of the institution. The Appeal Memo filed by the Teacher before the learned Tribunal shows that it was the specific case of the Teacher that the Respondents i.e. Management and the Headmaster took the attendance of the Teacher on the separate muster roll of the Petitioner No.3 – School for the reasons best known to them. Therefore, the absence of the name of the Teacher in the muster-roll of the Petitioner No.3 – School will not be sufficient to accept the contention of the Petitioners that the Teacher was never appointed on their establishment.

13. The papers shows that, after her otherwise termination by the Management, the Teacher filed Applications before Respondent No.2 – Education Officer raising grievance in respect of her otherwise termination, upon which Respondent No.2 – Education Officer issued the communications to the Petitioners for hearing in the matter with all the documents in connection with the Teacher. However, the Petitioners except asking time did nothing. It becomes clear from the Report / Reply filed by Respondent No.2 – Education Officer before the learned School Tribunal, the copy of which is at Exh. 'C-1' to the Petition, the Petitioner-Management did not put forth their contentions before Respondent No.2 – Education Officer when they were called to respond to the complaint made by the Teacher. It is only after the

Teacher filed the Appeal before the learned School Tribunal, the Petitioner – Management came up with surprising stand that the Petitioner was never appointed by them and approval orders were fake. The said stand in the light of the above observations is an afterthought. It becomes clear that, the Management came up with the afterthought contention and on the basis of overwhelming material supporting the case of the Teacher, the stand taken by the Petitioners falls down. The observations in the above referred Writ Petition No.3000 of 2024 are clear and speaks volumes about the conduct of the Petitioners.

14. The learned School Tribunal considered the contentions of both the sides and passed a reasoned Judgment and rightly came to the conclusion that, the Teacher was appointed by the Management and the Teacher was restrained from discharging her duty which amounts to otherwise termination and rightly allowed the Appeal. The observations made by the learned School Tribunal are based on the material on record and calls for no interference. From the above discussed cogent and convincing material on record, no interference is called in the impugned Judgment and order passed by the learned School Tribunal. The documents on record, particularly issued by Respondent No.2 – Education Officer while discharging his duties clearly shows that, the Teacher was approved a Teacher and was confirmed in services as the 'Assistant Teacher' after successful completion of the probation period. The act of the Management is not only violative of the regulations of the

MEPS, but also caused injustice to the Teacher. The previous orders in this Writ Petition were passed during the pendency of the Writ Petition and has no bearing on the merits of the case. In the facts and circumstances of the case and in the light of the above discussion on merits of the case, no benefit can be derived by the Petitioners from the authorities relied upon by their Advocate. In the backdrop of the above, the Petition fails and warrants imposition of cost on the Petitioners. Hence, the following order.

ORDER

(i) The Writ Petition is dismissed with cost of Rs.10,000/- (Rs. Ten Thousand Only) to be paid by the Petitioners to Respondent No.1 within a period of four (4) weeks.

(NEERAJ P. DHOTE, J.)

GGP