

Digitally
signed by
VINA
ARVIND
KHADPE
Date:
2026.09.23
18:17:16
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2890 OF 2010

Vijaykumar Waman Wakale ... Petitioner
Versus
The Secretary / President / Trustee
St. Philomena School Trust ... Respondents

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w Mr. Vinayak R. Kumbhar, Mr. Rajendra B. Khaire i/b. Ms. Ashiwini N. Bandiwadekar for the Petitioner.

Mr. Ashok G. Kothari for Respondent Nos. 1 and 2.

CORAM : M.M. SATHAYE, J.

DATE : 23 SEPTEMBER, 2026

P.C. :

1. Heard the learned Counsel for the parties. Perused the record.
2. The Petitioner – employee is challenging the order dated 21.01.2010 passed by the Presiding Officer, Additional School Tribunal, Navi Mumbai in Appeal No.11 of 2009. By the said impugned order, the Petitioner’s Appeal challenging the order of termination with effect from 14.10.2006 is dismissed.
3. The Petitioner filed the said Appeal contending *inter alia* that he was appointed as Shikshan Sevak with effect from 03.02.2001 for a period of three years on clear and permanent vacancy. He contended that he worked sincerely, however, the Respondent – Management harassed him and ultimately terminated his service illegally. The Respondent – Management contested the Appeal on

merits. The Tribunal has dismissed the same on merits, on appreciation of evidence, holding that Petitioner could not prove that the impugned termination letter dated 14.10.2006 was illegal and further holding that the Petitioner was not entitled to any relief.

4. Learned Senior Advocate appearing for the Petitioner submitted that the Petitioner was admittedly appointed on probation of three years as Shikshan Sevak and during his probation period, the Petitioner has been terminated without following the provisions of Section 5(3) of Maharashtra Employees of Private School (Conditions of Service) Regulation Act, 1977 and Rules 1981 (“the said Act” and “the said Rules” for short). He submitted that it was necessary for the Management to either give him one month notice or salary / honorarium of one month in lieu of notice and he could not have been terminated otherwise. He submitted that from the impugned order, the termination appears to be oral termination. He has relied on the following Judgments in support of his contention that the notice is required to be given one month in advance, before termination in case of probation.

i) Progressive Education Society Hinghanghat and ors Vs. Nitin Krishnarao Nimbalkar and ors. 2006(4) Mh.L.J. 747

ii) Rehana Begum d/o SK. Safdar Vs. Khwaja Baba Urdu Education Society , Amaravati 2009(3) Mh.L.J. 665

5. On the other hand, learned Counsel for the Respondent –

Management invited the Court's attention to the averments made by the Petitioner in his Appeal Memo, especially paragraph 8, where the Petitioner has himself stated that the Management had issued notice dated 14.10.2006 terminating his service, however, the Petitioner did not accept the said termination letter. He has also invited the Court's attention to a specific contention raised by the Management in the written statement before the Tribunal (in paragraph-15 thereof) that there was written termination order, tendered to the Appellant but it was not accepted. He pointed out that allegation of oral termination was strongly denied. He submitted that there is no reason to interfere in detailed and well reasoned impugned order.

6. I have considered the rival submissions and perused the impugned order.

7. The Tribunal has considered the contentions in detail. Record shows that this Court has not granted any interim relief to the Petitioner during the pendency of the Petition.

8. Considering that the Petitioner himself in his Appeal memo has accepted the factual position that the notice was issued on 14.10.2006 terminating his service, the contention that it was an oral termination and therefore not in conformity with Section 5(3) of the said Act, has no merit.

9. Learned Counsel for the Respondent has placed on record copies of termination order dated 14.10.2006 as well as the cheque of the same date of Rs.4000 drawn in the name of the Petitioner along with postal receipt. As already noted above, the Petitioner in

his appeal memo has admitted that the Management had issued notice dated 14.10.2006 terminating his service. Therefore, it is clear that the Petitioner was not only issued a written termination order but one month's honorarium in lieu of notice was also sent. Refusal of the same by Petitioner is of no consequence. Therefore section 5(3) of the said Act is complied by the Respondent Management.

10. In the teeth of factual backdrop, the judgments relied upon by learned Senior Advocate for the Petitioner would not apply and help the Petitioner in principle. The factual matrix of the present case is clearly distinguishable, inasmuch as the written termination order alongwith was tendered/issued to Petitioner along with one month's honorarium.

11. Viewed in the light of what has been observed above, when the impugned order is perused, it is seen that during the period of probation, the Respondent – Management had issued various memos to the Petitioner regarding his unsatisfactory work. Apology letters written by the Petitioner are also on record (produced with affidavit in reply) which clearly indicate that, during the probation period, the Petitioner had clearly admitted his unsatisfactory work.

12. It has also come on record that the Petitioner resorted to sending letters to Ministers and Government Authorities and also sat on hunger strike, which are nothing short of pressurizing tactics.

13. The Respondent – Management by filing an Affidavit-in-Reply, has brought on record the copies of various memos issued to the Petitioner. It has come on record that the Petitioner indulged in

severely punishing the students, for which parents complained in writing. Explanation was sought and the Petitioner had given written apology letter dated 28.09.2006, asking for forgiveness for punishing the students by hitting them on their necks and between the thighs with a hard stick. There are other apology letters issued by the Petitioner also on record, dated 30.08.2006, 05.10.2006, 07.10.2006.

14. Therefore, clear picture emerging is that the Respondent Management was not satisfied with the work of the Petitioner. The termination letter dated 14.10.2006 is plain termination without casting any stigma.

15. In the aforesaid facts and circumstances and for reasons indicated above, overall, the view taken by the Tribunal is the most probable view. No perversity is found in the impugned order. Hence no interference is required.

16. Writ Petition is dismissed. Rule is discharged. No order as to costs.

17. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)