

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 402 OF 2011

1. Pimpri Chinchwad Education Trust
Having its office at Sector No. 28
Pradhikaran Nigdi, Pune – 411 044

2. The Principal, Pimpri Chinchwad
Polytechnic, Nigdi, Pune – 411 044.

...Petitioners

SNEHA
NITIN
CHAVAN

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NITIN CHAVAN
Date: 2026.10.22
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Versus

1. Tukaram Keraba Shinde
Age adult, Residing at Navshanti Niketan
Housing Society, Sector 29, Plot No. 39, Near
D.Y. Patil College, Akrudi Pradhikaran,
Pune – 411044

2. The Joint Director, Directorate of Technical
Education, 412 E, Ghole Road, Pune – 411 018

3. The State of Maharashtra

...Respondents

Mr. Sudhir Sadavarte for the Petitioners.
Mr. S.G. Kudle a/w Mr. K.D. Jadhav for Respondent No.1.
Mr. Yuvraj D. Patil, AGP for Respondent Nos. 2 and 3/State.

CORAM : M.M. SATHAYE, J.
DATE : 21st OCTOBER, 2026

JUDGMENT :

1. The Petitioner No.1 is an Educational Institute and Petitioner No.2 is a Polytechnic College run by it. Petitioners are challenging judgment and order dated 22.10.2010 passed by Presiding Officer, School Tribunal, Pune Region, Pune in Appeal No. 26 of 2009. By the

said impugned order, Appeal filed by Respondent No. 1 is partly allowed, thereby setting aside decision of the Petitioner-Management dated 31.01.2009 and findings of the inquiry committee and further directing the Petitioner-Management to reinstate the Respondent No. 1 in service for the purpose of inquiry and to conduct fresh inquiry against Respondent No. 1 from the stage of recording evidence by following applicable Rules. The Petitioner-Management is further directed to pay full salary to Respondent No. 1 from 05.08.2007 and continue to pay the same till completion of inquiry as per Rules.

2. The Respondent No. 1 filed the said appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules, 1981 (for short 'MEPS Act' and 'MEPS Rules') before Tribunal contending *inter alia* as under.

2.1 That he possessed educational qualification as B.E. Civil (M.E. Civil appearing). That in response to an advertisement published in 1990, he applied for the post of lecturer. That he was called for an interview and came to be selected on the post of Lecturer in Applied Mechanics. That appointment order dated 14.01.1991 was issued. That thereafter, the Management has issued 2 more appointment orders. That on completion of 2 years probation, he was deemed permanent employee. That his work and performance was satisfactory, and no memo or warning was issued to him.

2.2 That he and his colleagues were deprived of the financial benefits and therefore, request/demand was made in writing from time to time. That after completion of 6 years, he was entitled for up-gradation in Pay-Scale. However, despite repeated requests, the Management deprived him of the benefits. That this resulted into Respondent No. 1 making correspondence with the Management since August 1998.

2.3 That in December 2004, he was appointed as in-charge Head of the Department of Civil Engineering. However, instead of paying as per prescribed rate, he was paid fixed amount. That in October 2005, the Management informed the Respondent No. 1 that he is placed in the scale of senior lecturer with effect from 01.09.2005. That on 01.06.2006, charge of this post as Head of the Department was suddenly withdrawn and one Mr. P. P. Jadhav was given the said responsibility.

2.4 That thereafter, he made representation for giving benefits of selection grade because he had completed 15 years of service. That thereafter, he pursued the matter with education authorities and in December 2006, the Joint Director of Technical Education had written to the Management asking for necessary action.

2.5 That vide Order dated 05.04.2007, the Respondent No. 1 was placed under suspension for alleged misconduct.

2.6 That on 19.11.2007, letter of allegation was issued by Management. That only 7 days time was given when certain documents were required. That vide letter dated 01.01.2008, he was informed names of two members of the inquiry committee calling upon him to nominate his representative. On 14.01.2008, he communicated name of his nominee Mr. H.V. Chavan.

2.7 On 21.01.2008, charge sheet was issued, including 10 charges. On 20.02.2008, Respondent No. 1 submitted his explanation, denying all charges.

2.8 That the proceedings of the inquiry were completed in hasty manner. That on 15.01.2009, Respondent No. 1 submitted written arguments. That on 27.01.2009, two members of the inquiry committee including convener and award-winning teacher submitted their reports. On 29.01.2009, nominee of Respondent No. 1 submitted his separate

reports.

2.9 On 31.01.2009, termination letter was issued which was received by Respondent No. 1 by registered post. Therefore, appeal is filed.

3. The Petitioner- Management filed a reply denying allegations made against it. It is denied that Respondent No. 1 was appointed in clear and permanent vacancy. Satisfactory performance was denied. Alleged deprivation of legal entitlement were denied. It is contended that the Respondent No. 1 did not file any documents in support of his contentions. The Management denied violation of provisions of law or principles of natural justice. It is contended that the allegations are false and baseless. The Management contended that documentary evidence was produced before the enquiry committee in support of the charges. It was contended that memos were issued to Respondent No. 1. However, the Respondent No.1 admitted his faults by replying to the memos and gave assurances. It is contended that the Respondent No. 1 continued his misconduct, negligence of duty, and intentional negligence, and did not improve behavior and the Management was constrained to initiate enquiry. It was further contended that Respondent No. 1 did not examine any witnesses. It is contended that sufficient opportunity was given to Respondent No. 1. That on many occasions Respondent No. 1 threatened the witnesses of Management and used unparliamentary language against them. That during inquiry committee meetings Respondent No. 1 never respected the committee. That minutes of the meetings were duly supplied to Respondent No. 1 which are signed by the Respondent No. 1 except when he was absent. That no objection was raised during enquiry. That Respondent No. 1 has taken lengthy cross examination of witness Mr. P. P. Jadhav. That Respondent No. 1 was paid subsistence allowance @ of 75% and the enquiry was

prolonged because of the conduct of Respondent No. 1. That the allegation of victimization is denied. That since the State Awardee teacher, Mr. M. N. Kondhwekar resigned in between, another State Awardee teacher, Mrs. Kulkarni, was required to be appointed. That as many as 38 sittings took place during the enquiry and full opportunity was given to Respondent No. 1 to defend himself. That 2 members of the inquiry committee have given findings recommending major punishment following which the Management has issued order of termination.

4. The Tribunal, after hearing both sides and on appreciation of evidence held that the inquiry committee was constituted in accordance with provisions of the MEPS Act and said Rules. However, holding that inquiry was not conducted as per MEPS Rules, the appeal is allowed.

5. In these circumstances, Petitioners have challenged the impugned order. The petition is admitted on 15.04.2011 and the operation and execution of the impugned order has been stayed for last more than 15 years.

SUBMISSIONS

6. Learned counsel Mr. Sadavarte, appearing for the Petitioner-Management submitted as under. That complaints were received against the Respondent No. 1 and by following due procedure under the MEPS Act and MEPS Rules, the Respondent No. 1 was put under suspension and inquiry committee was constituted. That chargesheet and statement of allegations were served upon Respondent No. 1. That as many as 38 sittings took place by the inquiry committee where the witness of the Management has been cross-examined by the Respondent No. 1. That

the Respondent No. 1 has filed written submissions and after giving full opportunity to Respondent No. 1, the inquiry committee has submitted its report finding him guilty of all charges except charge No. 10. That the inquiry committee, by majority recommended major penalty, which has been acted upon by the Management. That only on the ground that further explanation was not sought from the Respondent No. 1 by serving summary of proceedings, the inquiry has been held as vitiated. That detail reply was given by the Petitioner-Management and it was specifically contended that Respondent No. 1 has not submitted any explanation to the statement of allegations though one month time was given instead of 7 days. That there is substantive compliance with the Rules and therefore the alleged non-compliance is not sufficient to vitiate entire inquiry. He finally submitted that there is no real prejudice shown by the Respondent No. 1 and Tribunal was not justified in interfering. He relied on following judgments in support of his case.

- (i) State Bank of Patiala v/s. S. K. Sharma. (1996) 3 SCC 364.*
- (ii) State Bank of India v/s. Bidyut Kumar Mitra & Ors. (2011) 2 SCC 316.*
- (iii) Surabhi Keshav Sahu V/s. State of Maharashtra & Ors. (Writ Petition (L) No. 29423 of 2022 Judgment pronounced on 28.03.2025, Division Bench of Bombay High Court).*

7. On the other hand, Mr. Kudle, learned counsel for Respondent No. 1 submitted as under. That the Tribunal has clearly held that procedure was not followed. Therefore, opportunity was given to the Petitioner-Management. That if Rules were followed, he was always ready to face inquiry. He submitted that the opportunity given to the Management under impugned order is not taken and instead of conducting fresh inquiry, the Petitioner has chosen to file this petition

and obtain stay to harass Respondent No. 1. That the Petitioner has already reached the age of superannuation at the end of March 2023 and therefore, there is no question of reinstatement, but he is entitled to back wages and continuity in service. He finally submitted that the Tribunal has seen the injustice caused to the Respondent No. 1 and has passed reasoned order and there is no reason to interfere.

8. Mr. Sadavarte, learned counsel for the Petitioner in rejoinder submitted that the Tribunal has also considered the merits of charges leveled against Respondent No. 1 in paragraph No. 47 onwards in the impugned order and therefore it is not necessary to conduct inquiry again.

9. Learned AGP appearing for the Respondent-State, relying on affidavit in reply dated 06.04.2011, has submitted that the State cannot be burdened with any liability to pay as the Petitioner-Management has been recognized on permanent non-grant basis under Government Resolution dated 21.05.1983. He submitted that this is a dispute purely between Management and employee about the charges leveled against Respondent No. 1 and the Management alone is responsible for liability, if any.

REASONS AND CONCLUSION

10. I have considered the rival submissions and perused the record. First of all, it is necessary to consider the settled law in respect of conduct of inquiry in case of a delinquent employee.

11. Useful reference can be made to paragraph No. 33 (3) of *In State Bank of Patiala v/s. S. K. Sharma (Supra)*, where it is held by the

Hon'ble Supreme Court that in the case of alleged violation of the procedural requirements, the procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent and violation of each and every procedural provision cannot be said to automatically vitiate the inquiry held or order passed. It is further held that except cases falling under 'no notice, no opportunity and no hearing' categories, the complaint of violation of procedure should be examined from the point of view of prejudice namely whether such violation has prejudiced the delinquent in defending himself properly and effectively. It is further held that if it is found that the delinquent has been so prejudiced, then appropriate order to repair and remedy the prejudice can be passed. However, it is held that if no prejudice is established to have resulted to the delinquent, no interference is required.

12. In *SBI V/s Bidyut Kumar (Supra)*, the aforesaid law has been reiterated in paragraph No. 37 of the said Judgment. It is held that pleading and proof is necessary to show prejudice.

13. Recently, the Division Bench of this Court in *Surabhi Keshav Sahu (Supra)* has considered *State Bank of Patiala V/s S. K. Sharma (Supra)* and re-iterated the test to be applied - "all things taken together whether the delinquent had or did not have a fair hearing?". This is required to be seen.

14. In view of the aforesaid settled position of law, it is necessary to examine the facts of this case. So far as opportunity to Respondent No. 1 is concerned, following facts emerge from record :

14.1. The Tribunal in paragraph Nos. 38 & 39 has clearly held that

Respondent No. 1 has not brought on record any prejudice caused to him and the Committee is constituted as per the said Rules.

14.2. Respondent No. 1 did not submit his explanation to the letter informing allegations. It is not in dispute that the inquiry committee included Mr H.V. Chavan, who was nominated by Respondent No. 1/delinquent. It is also clearly observed that Respondent No. 1 never raised in objection either to the appointment of Mr. Kondhwekar or Mrs Kulkarni, who both were award winning teacher.

14.3. In paragraph no. 44 of the impugned order, it is explained in detail as to how Respondent No. 1 has cross-examined the witness of the Management and despite directions by the committee, how Respondent No. 1 has not examined any witness or has not filed any evidence affidavit.

14.4. It has also come on record that Respondent No. 1 has failed to give written explanation after service of statement of allegations.

14.5. It has also come on record that the inquiry committee asked Respondent No. 1 many times to appoint advocate, if he desires, but he has chosen to appear himself.

14.6. The Tribunal has also held that the arguments of Respondent No. 1 such as predetermined intention of the management and bias are not proved by him.

14.7. As many as 38 sittings of inquiry committee were held. Though an argument was made that written submissions of Respondent No. 1 are not considered, the Tribunal has clearly found that no such written submission was filed.

14.8. In paragraph No. 61, it is held that more than sufficient opportunity was given to Respondent No.1 to cross examine the witness of the management and that many dates were given for cross examination.

15. However, in paragraph No. 44, the Tribunal has concluded that the inquiry committee did not give opportunity to Respondent No. 1 to submit his 'further-explanation' about summary of proceedings as required under Rule 37(5) of the MEPS Rules and further explanation ought to have been sought by serving summary of proceedings either personally or by registered post AD. This is apparently the only reason why the Tribunal has held the entire inquiry as being vitiated. The Tribunal, in paragraph No. 58, has held that since the inquiry has been found to be in breach of Rules 37 (4) & (5), it is not discussing and deciding on merits about the inquiry committee findings. The Tribunal has surprisingly held that the inquiry committee ought to have recorded oral-evidence and should not have accepted affidavit of examination-in-chief and therefore proper procedure is not followed.

16. From aforesaid factual aspects, it is clear that Respondent No.1 had sufficient opportunity to defend his case. He has chosen not to give explanation to statement of allegations. He has chosen not to examine any witness. He was given sufficient opportunity to cross examine. Therefore, it is clear that there was no real prejudice to the Respondent No.1 and all things taken together, Respondent No.1 had sufficient opportunity to defend his case. Therefore, it is not possible to sustain the impugned order by which the findings of the inquiry committee as well as consequent termination have been set aside. The Tribunal was not justified to hold the entire inquiry as vitiated, in the circumstances narrated above.

17. The Tribunal has not considered the finding of the inquiry committee on merits. Considering that the petition has remained pending for a long time and the impugned order was stayed, I do not

find it appropriate to relegate the parties back to the Tribunal for any purpose. Therefore, it is necessary to consider the charges.

18. Charge No.1 is about negligently sealing mark sheet in M.S.B.T.E practical examination. Charge No. 2 is in respect of negligently checking, certifying and approving results of experiments in the laboratory manual. Charge No. 3 is about negligently leaving the institute early without informing to superiors despite being member of internal squad of supervisors during examination. Charge No.4 is also about leaving the institute early without permission of the superiors. Charge No. 5 is about persistently and deliberately failing to take lectures as per timetable. Charge No. 6 is in respect of refusing to sign, accept and acknowledge notices sent by Head of the department and superiors. Charge No. 7 is about taking various leaves arbitrarily and without seeking prior permission. Charge No. 8 is about neglecting to follow instructions and orders issued by head of the department and behaving in a rude and arrogant manner. Charge No. 9 is about not remaining present before the Internal Investigating Committee and challenging the authority of the Principal resulting in serious misconduct and insubordination. Charge No. 10 is about using unparliamentary language with staff and colleagues and speaking unspeakable badwords and raising chappal on non-teaching staff.

19. Charge No. 10 has not been found to be proved by the inquiry committee.

20. Considering the nature of remaining charges, as explained above, in my view, the punishment of termination appears to be disproportionate. Even reduction in rank would have been sufficient.

Now, due to lapse of time, Respondent No.1 has reached the age of superannuation some time in the year 2023. The impugned order has been stayed for last about 15 years. There is nothing on record to establish conclusively whether Respondent No.1 was or was not gainfully employed in the meantime. There is word against word. Also, it is difficult to believe that Respondent No.1 did not do anything for such a long period of time. However, the Court cannot lose sight of the fact that at the time of termination, Respondent No.1 had served for 18 years (from 1991 to 2009) which is long period of time and about 14 more years were left before retirement. There is no serious dispute about legality of his appointment. Apparently, the inquiry was initiated after Respondent No.1 started corresponding with the Management demanding dues.

21. Therefore, taking overall view of the matter and considering above circumstances, in my view Respondent No.1 deserves a lump sum compensation.

22. Hence, the petition succeeds only in part. Writ Petition is disposed of by passing following order :

(A) The impugned order dated 22.10.2010 is quashed and set aside. The findings of the enquiry committee are confirmed.

(B) However, the punishment of termination is found to be disproportionate.

(C) The Petitioner-Management is directed to pay an amount of Rs. 16 Lakh as a lump sum compensation to Respondent No.1 within a period of 6 weeks from today, failing which the said amount shall carry interest @ 9% per annum from the date after 6 weeks from today till realization.

23. Rule is made partly absolute in above terms with no order as to costs.

24. At this stage, learned counsel for the Petitioner seeks stay of this order for a period of 8 weeks. Considering that 6 weeks time is granted for making payment and the interest is chargeable thereafter, separate stay is not necessary. Hence request is rejected.

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

(M.M. SATHAYE, J.)