



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12020 OF 2025

1. Smt. Shubhada Subhash Shah,
Age : 80 Years, Occu. : Chairman,
Vidya Vikas Mandal, Mangalwedha,
Dist. Solapur,
Having its office at
Shri Sant Damaji Mahavidhyalaya
Building, Mangalwedha,
Dist. Solapur.
2. Babaso Bhimrao Patil,
Age : 83 Years, Occu. : Vice Chairman,
Vidya Vikas Mandal, Mangalwedha,
Dist. Solapur,
Having its office at
Shri Sant Damaji Mahavidhyalaya
Building, Mangalwedha,
Dist. Solapur.
3. Kisan Jagganath Gavali,
Age : 73 Years, Occu. : Secretary,
Vidya Vikas Mandal, Mangalwedha,
Dist. Solapur,
Having its office at
Shri Sant Damaji Mahavidhyalaya
Building, Mangalwedha,
Dist. Solapur.
4. Audumbar Jyoti Jadhav,
Age : 60 Years, Occu. : Service,
The Principal,
Shri Sant Damaji Mahavidhyalaya
Having its office at
Mangalwedha, Dist. Solapur.

5. Shri Atul Shankar Ingale,
Age : 45 Years, Occu. : Service,
R/o Hajare Galli, Mangalwedha,
Dist. Solapur. .. Petitioners

Versus

1. Shri Prashanth Gaurishankar Rajmane,
Age : 46 Years, Occu. : Service,
R/o Mitra Nagar, Pandharpur Road,
Tal. Mangalwedha, Dist. Solapur.
2. Shri Umesh Bhauroji Kakade,
Age : 52 Years, Occu. : Service,
The Regional Joint Director
of Higher Education,
Solapur Region, Solapur. .. Respondents

Shri Ashutosh M. Kulkarni, Advocate a/w Shri Akshay A. Kulkarni and Shri Avesh Ghadge, Advocates for the Petitioners.
Shri Y. B. Lengare, Advocate through V.C. a/w Shri Ajay Parsekar for the Respondent No. 1.

CORAM : SHAILESH P. BRAHME, J.

CLOSED FOR JUDGMENT ON : 29.08.2026
JUDGMENT PRONOUNCED ON : 08.09.2026

JUDGMENT :-

. Rule. Rule is made returnable forthwith. Heard finally with the consent of the parties.

2. The petitioners are assailing order dated 30.09.2025 passed below Exhibit 07 overruling the objection of maintainability of Misc. Application No. 05 of 2025 preferred U/Sec. 85 of the

Maharashtra Public Universities Act, 2016 (for the sake of brevity and convenience hereinafter referred as to the “Act”).

3. Learned counsel for the petitioners submits that the University and College Tribunal has no jurisdiction to entertain any application U/Sec. 85 of the Act for conviction and imposition of fine for the contravention of orders passed by the Tribunal. It is submitted that provisions of Sec. 85 of the Act are *pari materia* to Sec. 13 of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act (for the sake of brevity and convenience hereinafter referred as to the “MEPS Act”) and the application U/Sec. 85 of the Act would be maintainable before the Judicial Magistrate First Class. It is submitted that power to convict and impose punishment or fine would be within the realm of jurisdiction of the criminal court and those cannot be usurped by the College Tribunal. For that purpose my attention is adverted to Sections 4, 5 and 26 of the Code of Criminal Procedure (for the sake of brevity and convenience hereinafter referred as to the “Cr. P. C.”). It is submitted that as per Schedule I Part II, only Judicial Magistrate First Class would be having power to impose fine as contemplated by Sec. 85 of the Act. It is submitted that the Presiding Officer, College Tribunal has committed error of jurisdiction in rejecting the application Exhibit 07.

4. Per contra, Mr. Lengare, learned counsel appearing for the respondent No. 1 would submit that there is persistent non

compliance by the petitioners, without there being any excuse. It is vehemently submitted that the provisions of Sec. 85 of the Act and Sec. 13 of the MEPS Act are not *pari-materia* and there is stark difference in the powers and jurisdiction of the authority. It is submitted that the Universities Act is special statute. It has provided quick remedy for non compliance of the orders passed by the Tribunal. It is submitted that recourse to criminal court is not contemplated for awarding penalty prescribed U/Sec. 85 of the Act. The College Tribunal has inherent powers to see and supervise implementation of its orders.

5. The petitioners are the office bearers of Vidya Vikas Mandal Mangalwedha, Dist. Solapur. The respondent No. 1 is an employee, who was working since 03.05.1999 as a junior clerk. He was terminated on 12.08.2015 by the management, which was the cause of action for him to prefer Appeal No. 02 of 2018 before the University and College Tribunal, Pune. After hearing both sides, appeal was allowed vide judgment dated 12.09.2024 directing the management to reinstate him to the original post within two (02) months and to extend benefit of continuity of service with backwages along with allowances as per the rules. Additionally cost of Rs. 10,000/- was awarded to him. The judgment was assailed by the management by preferring Writ Petition No. 773 of 2025. It was dismissed on 05.03.2025.

6. The respondent No. 1 persuaded the management to comply the judgment passed by the Tribunal. He preferred Misc.

Civil Application No. 01 of 2024 U/Sec. 85 of the Act. It was allowed by the Tribunal vide order dated 28.03.2025 directing the petitioners to pay fine of Rs. 1,00,000/- in aggregate for the contravention of the directions issued by the Tribunal and reiterating to comply within one month. The respondent No. 1 was reinstated on 22.04.2025. The remaining part of the directions of the Tribunal remained to be complied with. Hence on the second occasion Misc. Application No. 05 of 2025 was preferred U/Sec. 85 of the Act against the petitioners. They appeared before the Tribunal and raised objection to the maintainability by filing application Exhibit 07. It was rejected by the impugned order.

7. The College Tribunal is empowered to grant relief U/Sec. 83 of the Act. It is further laid down U/Sec. 83(iv) of the Act that directions issued by the College Tribunal should be complied with by the management within a period specified in the direction. In case of non compliance the remedy is provided by Sec. 85 of the Act, which reads as follows :

The Maharashtra Public Universities Act, 2016

1.

2.

85. (1) If the university or management, as the case may be, fails, without any reasonable cause, to comply with any direction issued by the Tribunal under section 83 within the period specified in the direction, or within such further period

as may be allowed by the Tribunal, the university or management, as the case may be, shall on conviction, be punished-

(a) for the first contravention, with fine which may extend to one lakh rupees: Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Tribunal, the fine shall not be less than ten thousand rupees;

(b) for the second and subsequent contraventions, with fine which may extend to five lakh rupees for each such contravention: Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Tribunal, the fine shall not be less than five thousand rupees: Provided further that, when the direction issued by the Tribunal is not complied with, within the period stipulated in the direction or within such further period as allowed by the Tribunal, and when the contravention is a continuing one, the convicted person shall be punished with a further fine of rupees five hundred per day during which such contravention continues after conviction.

(2) (a) Where the university or, as the case may be, management committing the contravention under this section is a society, every person who at the time such contravention has been committed, was in charge of and was responsible to the society, for the conduct of the affairs of the society, as well as the society, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that, nothing contained in this sub-section shall render any person liable to the punishment, if he proves that the contravention was committed without his knowledge or that he had

exercised all the diligence to prevent commission of such contravention.

(b) Notwithstanding anything contained in clause (a), where the contravention has been committed by a society and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of the Management Council of the university or any president, chairperson, secretary, member, principal or manager or other officer or servant of the society, such Management Council, president, chairperson, secretary, member, principal or manager or other officer or servant concerned, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section, society means a society registered under the Societies Registration Act, 1860 or a public trust registered under the Maharashtra Public Trusts Act, or any other body corporate, and includes an association or body of persons, by whatever name called, under whose management one or more colleges or institutions are conducted and admitted to the privileges of the university.

8. A careful reading of Sec. 85 of the Act shows that non compliance of the directions issued by the College Tribunal would result in punishment and imposition of fine. For the first contravention the maximum fine would be Rs. 1,00,000/- and for subsequent contraventions it would extend upto Rs. 5,00,000/- for each contravention. The word offence has not been used in Sec. 85 of the Act.

09. The word offence has been defined in Sec. 2(n) of the Cr. P. C., which is as follows :

The Code of Criminal Procedure, 1973

1.
2. (a)
- (b)

(n) "offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle trespass Act, 1871 (1 of 1871);

10. Section 4 of the Cr. P. C. provides trial of the offences, which is as follows :

The Code of Criminal Procedure, 1973

1.
2.

4. Trial of offences under the Indian Penal Code and other laws

(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

11. The Criminal Courts are classified by Sec. 6 of the Cr. P. C. The powers of the Courts are provided by Sec. 26 of the Cr. P. C., which is as follows :

The Code of Criminal Procedure, 1973

1.
2.

26. Courts by which offences are triable

Subject to the other provisions of this Code,—

(a) any offence under the Indian Penal Code (45 of 1860) may be tried by—

- (i) the High Court, or
- (ii) the Court of Session, or
- (iii) any other Court by which such offence is shown in the First Schedule to be triable;

(b) any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court and when no Court is so mentioned, may be tried by—

- (i) the High Court, or
- (ii) any other Court by which such offence is shown in the First Schedule to be triable

12. The conjoint reading of above provisions of the Cr. P. C. would show that if the act is an offence, then the person committing it has to be tried by the Courts having jurisdiction as per Sec. 26 of the Code subject to the enactment. In this context Part II of the Schedule I of the Cr. P. C. would confer jurisdiction

upon the Judicial Magistrate First Class, if offence is punishable with fine only. No statutory framework is provided for treating the contravention under the Maharashtra Public Universities Act as an offence and laying down the forum, the powers thereof or procedure.

13. Both the learned counsels have made rival submissions comparing Section 85 of the Act with Section 13 of the MEPS Act. The powers of the School Tribunal are provided by Sec. 11 of the MEPS Act. The power is bestowed upon the Tribunal U/Sec. 13 for failure to comply it's directions and specifically section is coached with the word first offence, second and subsequent offences. It is relevant to reproduce Section 13 of the MEPS Act.

The Maharashtra Employees of Private Schools (Condition of Service) Regulation Act

1. ...
2. ...

13. Penalty to Management for failure to comply with Tribunal's directions.

- (1) If the Management fails, without any reasonable excuse, to comply with any direction issued by the Tribunal [under section 11 or any order issued by the Director under clause (a) of sub-section (1) or sub-section (4) of section 4A within the period specified in such direction, or as the case may be, under sub-section (5) of section 4A or within such further period as may be allowed by the Tribunal or Director as the case may be.] *[This portion was substituted for the portion beginning with the words 'under section' and ending with the words 'Tribunal' by*

Maharashtra 30 of 1987, Section 9.] the Management shall, on conviction, be punished,-

- (a) for the first offence, [with imprisonment for a term which may extend to fifteen days or with fine which may extend to fifty thousand rupees, or with both] *[These words were substituted for the words 'with fine which may extend to one thousand rupees' by Maharashtra 17 of 1995, Section 2(1)(a).]:*

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, the fine shall not be less than [ten thousand rupees] *[These words were substituted for the words 'one hundred rupees' by Maharashtra 17 of 1995, Section 2(1)(b).];* and

- (b) for the second and subsequent offences, [with imprisonment for a term which may extend to fifteen days or with fine which may extend to seventy five thousand rupees, or with both] *[These words were substituted for the words 'with fine which may extend to two thousand rupees' by Maharashtra 17 of 1995, Section 2(2)(a).]:*

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, the fine shall not be less than [twenty thousand rupees.] *[These words were substituted for the words 'five hundred rupees' by Maharashtra 17 of 1995,*

- (2)(a) Where the Management committing an offence under this section is a society, every person, who, at the time the offence was committed, was in charge of and was responsible to, the society, for

the conduct of the affairs of the society as well as the society, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any person liable to the punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of the offence.

(b) Notwithstanding anything contained in clause (a), where the offence has been committed by a society and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any president, chairman, secretary, member, Head or manager or other officer or servant of the society, such president, chairman, secretary, member, Head or manager or other officer or servant concerned shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section "society" means a society registered under the Societies Registration Act, 1860, or a public trust registered under the Bombay Public Trusts Act, 1950, or any other body corporate, and includes an association or body of persons, by whatever name called, under whose management one or more private schools are conducted.

14. The legislative intent is to treat the contravention of the orders of the School Tribunal as an offence unlike that of contravention of the directions of the College Tribunal.

Interestingly, for the first offence imprisonment extendable to 15 days and/or fine is prescribed. Further rigorous punishment is provided for second and subsequent offences. The word offence needs to be understood in contradistinction to contraventions. I am of the considered view that Sec. 13 of the MEPS Act is not *pari-materia* with Sec. 85 of the Act. The judgment cited by the learned counsel for the petitioner in this matter needs to be perceived in the backdrop of above analysis.

15. Reliance is placed on the judgment of the Coordinate Bench in the matter of Vilas Shankarrao Deshmukh and another Vs. S. A. Ghode, Principal, Navbharat Vidya Mandir reported in *2001(1) Mh.L.J. 261*, which inter alia refers to ratio laid down in the above judgment. Following are the relevant observations :

16. Besides the aforesaid, the remedy available to the employee concerned under [Section 13](#) can always be resorted to. By the Amendment Act, Maharashtra Act No. 17 of 1995, penalty has been sumptuously, increased. Multi-pronged action under the provisions of the said Act would act as a great deterrence for such managements who intend to disobey the directions issued by the School Tribunal. Once the employee concerned has made representation to the concerned authority of the State Government, it would be open to the employee to institute complaint before the appropriate Court against the office bearers of the management within the meaning of [Section 13](#) of the Act. Learned Government Pleader has placed reliance on a decision of the Apex Court reported in Municipal Corporation, Ludhiana v. Commissioner of Patiala Division, Patiala to contend that since no formula has been prescribed by [Section 13](#) of the Act, namely, as to the forum before which the proposed complaint has to be filed, such a

complaint would be maintained only in a criminal Court of competent jurisdiction. He has also referred to Sub-section (2) of [Section 4](#) of the Code of Criminal Procedure as to which forum would be competent to try the said offence under [Section 13](#). Reliance was also placed on Clause (n) of [Section 2](#) of the Code, which defines the offences, which would include the offence punishable under [Section 13](#) of the Act. In the circumstances, it would be appropriate to conclude that, the employee, besides approaching the officer of the State Government, who is overall in charge of the affairs of the School and obliged to ensure that the directions of the School Tribunal are complied with, shall lodge a formal complaint before the Criminal Court of competent jurisdiction to initiate action under [Section 13](#) of the Act against the office bearers of the management of the school. When the State machinery is involved, in all these matters, it is only then the possibility of management of the school avoiding to act upon the direction with utmost despatch can be obviated. Such a multi-pronged action alone would result into effective measure for enforcing the directions given by the School Tribunal. Only then the object and purpose with which the said enactment was legislated can be achieved. There is no doubt that the enactment is a welfare legislation for the protection of employees in Private Schools.

17. It is made clear that the aforesaid procedure shall not only apply to the directions which would be passed by the School Tribunal in future but would also apply with full force to the cases where the Tribunal has already issued such directions in the 'past and the same have remained uncomplied with so far. In all such cases it would be open to the affected/aggrieved employees to approach the concerned officer of the State Government for getting directions enforced by taking recourse to the above measures, including filing of prosecution under [Section 13](#) of the Act.

16. In the above matter there was non compliance of orders passed by the School Tribunal. The contravention is treated to

be an offence and hence Sec. 4 of the Cr. P. C. was relied upon. In the case at hand, we cannot fall back to any of the provisions of the Cr. P. C. or B. N. S. S. There is distinction between the phraseology used by the legislature in Sec. 13 of the MEPS Act and Sec. 85 of the Act. This judgment would not enure to the benefit of the petitioners.

17. My attention is also adverted to the judgment of the Division Bench of this Court in the matter of Shaikh Badarunnisa Begum Shaikh Abbas Vs. State of Maharashtra and others reported in *2004(2) Mh.L.J. 407* cited by the learned counsel for the petitioners to buttress that view taken by the Single Bench in the matter of Vilas Shankarrao Deshmukh and another Vs. S. A. Ghode, Principal, Navbharat Vidya Mandir (supra) has been approved by the Division Bench and the said view is binding upon this Court. That was also case of disobedience of the judgment passed by the School Tribunal. The disobedience of order passed by the School Tribunal has different complexion than that of the University and College Tribunal. The judgment cannot be made applicable to the present case.

18. Further reliance is placed on the judgment of learned Single Judge of the Delhi High Court in the matter of Mohd. Hashim Masood Vs. State reported in 1999 SCC OnLine Del 798. But the facts are distinguishable from the case at hand. The facts of that case pertain to commission of offence and that was a criminal matter before the High Court. The ratio laid down

would be of no avail to the petitioners.

19. Further reliance is placed on the judgment of Single Bench of the Madhya Pradesh High Court in the matter of Ramesh Ramlal and another Vs. State of M. P. reported in *2003 (1) MPLJ 475*. It was rendered in criminal revision application by the Coordinate Bench which was pertaining to the offence under the M. P. Excise Act. The facts are distinguishable. That pertains to clearly criminal jurisdiction and would not assist this Court.

20. Learned counsel for the petitioners has relied on the judgment of the Supreme Court in the matter of Municipal Corporation, Ludhiana Vs. Commissioner of Patiala Division reported in *(1995) 1 SCC 304*. My attention is adverted to para No. 6, which is as follows :

6. It appears that the Punjab and Haryana High Court has consistently taken the view that the imposition of fine under Section 116 (and the corresponding provision in the preceding enactments) can be only by a criminal court vide *Nitco Roadways (P) Ltd. v. Municipal Corpn. of Ludhiana* disposed of on 4-9-1985 and *Gian Chand v. State*. We are of the opinion that the said view is correct in law. The normal rule of legislative drafting is that wherever it says that a particular Act shall be "punishable with fine", it contemplates its imposition by a criminal court only. Be that as it may, both Sections 116 and 388 speak of "punishable with fine". Section 388 provides not only for fine but also for imprisonment. It cannot be suggested that the punishment of imprisonment contemplated by Section 388 can be awarded by the officers of the Corporation. If so, the punishment of fine can also not be imposed by them. The same logic applies to Section 116 as well. We, therefore, agree with the High Court that punishment of fine provided by Section 116

can be imposed only by the criminal court and cannot be imposed by the officers of the Corporation.

21. Considering the object sought to be achieved, I find that the normal rule laid down by the Hon'ble Apex Court in the above mentioned para No. 6 cannot be made applicable. Though words punish and fine appear in Sec. 85 of the Act, it cannot be said that only criminal court can impose the punishment or fine. Hence the reliance placed on the judgment cited by the petitioners is not helpful to uphold that application preferred by the respondent No. 1 U/Sec. 85 of the Act is not maintainable.

22. It is necessary to examine the penalty provided U/Sec. 85 of the Act and Sec. 13 of the MEPS Act. In Sec. 85 of the Act rigorous penalty is provided for the first contravention ranging from Rs. 10,000/- to Rs. 1,00,000/-. For the second and subsequent contravention it would be extendable to Rs. 5,00,000/- for each contravention. There is no provision of imprisonment U/Sec. 85 of the Act, but huge amount of fine is leviable. The legislative intent is to provide quick and effective remedy to the successful employee. The effective deterrence is also sought to be achieved.

23. If the arguments of the learned counsel for the petitioners are accepted, then the successful employee has to prosecute the matter before the forum provided under the Cr. P. C. or B. N. S. S. to secure conviction. The orders passed by the Court at the first instance would be susceptible to the appeals or the revisions.

This rigmarole is not contemplated by the state legislature and, therefore, the remedy against the contravention of the directions of the University and College Tribunal cannot lie before the criminal Court.

24. I do not find any jurisdictional error or illegality in the impugned order. The writ petition is devoid of any substance. The writ petition is dismissed. Rule stands discharged.

[SHAILESH P. BRAHME J.]

25. After pronouncement of the judgment, learned counsel for the petitioners seeks protection against the order dated 30.09.2025 so as to get breathing period to the petitioners.

26. The prayer is opposed by the learned counsel for the respondent No. 1.

27. The petitioners have failed to comply the order passed by the School Tribunal on multiple occasions. No stay was granted to the order dated 30.09.2025, albeit there was understanding between the parties not to proceed with the execution.

28. I do not find that there is any reason to stall the execution. The request is rejected.

[SHAILESH P. BRAHME J.]

bsb / Sept. 26