

(2007) 09 BOM CK 0021

In the Bombay High Court

Case No : Writ Petition No. 3186 of 2007

Bhagwanrao Vyawhare and Another

APPELLANT

Vs

Sau. Sunita Palve and Another

RESPONDENT

Date of Decision : 10-09-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 27

Constitution of India, 1950 — Article 226, 227

Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 — Rule 36, 36(1), 37, 38

Citation : (2008) 1 ALLMR 68 : (2007) 6 BomCR 275 : (2008) 1 MhLj 417

Hon'ble Judges : R.M. Savant, J

Bench : Single Bench

Advocate : P.M. Shah, for N.C. Garud, for the Appellant; S.S. Jadhavar, for the Respondent No. 1 and V.H. Dighe, Asstt. Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

R.M. Savant, J.—Rule, with the consent of the parties made returnable forthwith and heard.

2. The short question that arises for consideration in this writ petition filed under Article 226 and 227 of the Constitution of India is whether the petitioners should be permitted to conduct a fresh inquiry against the Respondent No. 1 in view of the fact that earlier inquiry was found to be defective as a consequence of which, the order imposing punishment of termination of service of Respondent No. 1 came to be set aside by the School Tribunal.

3. The petitioners have filed the above petition impugning the order passed by the School Tribunal, Solapur dated 17-4-2007. By the said order, the appeal filed by the Respondent No. 1 herein being Appeal No. 8 of 2007 came to be allowed and the petitioners were directed to reinstate the Respondent No. 1 from the date of her termination i.e. 30-12-2006 and be paid 50 per cent of the back wages.

The factual matrix involved in the above petition is stated thus,

The Respondent No. 1 was appointed as an Assistant Teacher in the school run by the Trust known as Shri Sant Savata Ashram Shikshan Samiti. The petitioners are the office bearers of the said Trust. Initially, the said Trust was running a primary school and thereafter the said Trust had secured permission for the secondary school and started the said secondary section in or about year 1995. The Respondent No. 1, having acquired higher qualification of B.P.Ed. in the year 1999-2000 was appointed as Assistant Teacher in the secondary school and thereafter she was promoted as Head Mistress from 1-1-2005 which appointment was also approved by the Education Officer by order dated 27-4-2005. The Respondent No. 1 was issued a statement of allegations dated 24-2-2006 in respect of two charges levelled against her which the Respondent No. 1 replied within the time stipulated by the Management. The Respondent No. 1 was thereafter issued the charge sheet on 1-5-2006 with an additional charge incorporated therein. The Management thereafter proceeded to hold enquiry against the Respondent No. 1 by constituting an Inquiry Committee and based on the findings of the Inquiry Committee terminated the services of the Respondent No. 1 on 30-12-2006. The Respondent No. 1, being aggrieved by the said termination, filed appeal before the School Tribunal, Solapur which came to be numbered as Appeal No. 8 of 2007. The Respondent No. 1 in the appeal memo has specifically raised the grounds regarding the manner in which the inquiry was conducted against her and especially the ground that the inquiry was not initiated by the person competent to initiate it in terms of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, (hereinafter referred to as "the MEPS Rules" for the sake of brevity) and also the ground that the constitution of the Inquiry Committee was not as contemplated in the said Rules and also that the termination order has been issued by a person who is not competent to issue the said order in terms of the said Rules. The petitioners herein filed their say to the said Appeal and contended that the inquiry has been properly conducted against the Respondent No. 1 and denied that the constitution of the Inquiry Committee or the termination of the Respondent No. 1 was improper. The learned Member of the School Tribunal came to a conclusion that the inquiry conducted against the Respondent No. 1 was vitiated on account of the fact that there was breach of Rule 36(1), 37 and 38 of the MEPS Rules inasmuch as though the President of the Management ought to have issued the statement of allegations, the same was issued by the Chairman of the School Committee who is incompetent to issue the same. The learned Member of the School Tribunal relied upon a judgment of this Court reported in 1992 Mh.L.J. 216 in the matter of Kankubai Shrivikashram Trust and Ors. v. Kamal w/o. Dattatraya Khajurkar and Ors., in which case it has inter alia been held that in so far as the head of the School is concerned, the statement of the allegations ought to be issued by the President of the Management. The said view in Kankubai's case has been confirmed by the Full Bench judgment of this Court in the case of National Education Society, Nagpur v. Mahendra Baburao Jamkar and

Anr. reported in 2007 (3) Mh.L.J. 207. The School Tribunal, therefore, found that the inquiry was vitiated at its inception on account of the fact that the statement of allegations were not issued by the President of the Management but by the Chairman of the School Committee.

The learned Member of the School Tribunal also came to a conclusion that the inquiry was also vitiated on account of the fact that the constitution of the Inquiry Committee was not in accordance with Rules 36(2)(b) and 37 of the said MEPS Rules. Though the President of the Management was required to be a Member of the Inquiry Committee, in the instant case, he was not a Member of the Inquiry Committee and the Secretary, one Shri Borhate was participating in the proceedings. The learned Member of the School Tribunal has also observed that one Sunil Jadhav, Secretary of the School Committee, was also found present at the time of inquiry. Shri Borhate, who was not the President of the said Trust, has worked as Convener of the Inquiry Committee. The learned Member of the School Tribunal, therefore, came to a conclusion that there was a breach of Rules 36 and 37 in the matter of constitution of the Inquiry Committee and also the manner in which the proceedings were conducted. The learned Member of the School Tribunal also found that there was a breach of the Rule 38 of the said MEPS Rules inasmuch as though the termination order ought to have been issued by the Chief Executive Officer pursuant to the Resolution passed by the Management in that behalf, the said termination order was issued by the Chairman of the School Committee who was incompetent to issue it. The learned Member of the School Tribunal, therefore, came to a conclusion that the entire inquiry right from its inception was vitiated on account of the aforesaid breaches and since a defective inquiry is tantamount to no inquiry, the learned Member of the School Tribunal directed the reinstatement of the Respondent No. 1 with 50 per cent back wages. As indicated above, it is this order passed by the learned Member of the School Tribunal which is impugned in the present petition.

4. I have heard learned Senior Counsel Shri P.M. Shah, for the petitioners, Shri S.S. Jadhavar, learned Counsel for the Respondent No. 1 and Shri V.H. Dighe, learned Asstt. Govt. Pleader for the Respondent No. 2. The principal submission of Shri P.M. Shah, learned Senior Counsel appearing for the petitioner is that since the School Tribunal had found the inquiry vitiated, there were two courses open to the School Tribunal either to remand the matter back for facilitating a de novo inquiry against the Respondent No. 1 or it was open for the School Tribunal to direct the parties to lead evidence before it and thereafter the School Tribunal could have gone into the charges levelled against the Respondent No. 1. The School Tribunal, according to the learned Senior Counsel, has erred in not following either of the courses but directing the reinstatement of the Respondent No. 1 with 50 per cent back wages. The learned Senior Counsel further submitted that the petitioners have no grievance about the findings recorded by the School Tribunal in respect of the breach of the Rules in the matter of the conduct of the inquiry against the Respondent No. 1. The learned Senior Counsel submits that, in all humility, the petitioners accept the said findings but, however, are

aggrieved by the fact that the School Tribunal has not permitted them to hold a de novo inquiry against the Respondent No. 1. The learned Senior Counsel placed reliance on the judgment of the learned Single Judge of this Court in the matter of Adarsh Vidya Mandir Trust and Another Vs. Shri Awadesh Narayan Komal Singh and Others, , in support of his submission that since the inquiry was found to be vitiated, the Management should be allowed to conduct a de novo inquiry against the Respondent No. 1. The learned Senior Counsel relied upon paragraphs Nos. 7, 8, 9 and 10 of the said judgment, which according to him are relevant. The said paragraphs are reproduced here in under

5. Having considered the rival submissions, I have no hesitation in affirming the opinion expressed by the Tribunal that the enquiry conducted by the Management is vitiated on account of breach of principles of natural justice. The Tribunal has recorded reasons to support the said opinion which, to my mind, are unexceptionable. However, there is substance in the argument canvassed on behalf of the petitioners that assuming that the enquiry was bad on that count, the Tribunal had two options either to decide the charges itself on merits or to relegate the parties for further enquiry from the stage where the Tribunal has found fault with the fairness of the disciplinary enquiry conducted against the respondent No. 1.

6. The submission is supported by the two decisions pressed into service. The Division Bench of our High Court in the case of Children's Educational Uplift Society (supra) in Para 5 has observed thus :

5. However, the Tribunal has erred in setting aside the order of termination of the services and granting reinstatement only on that ground. Once the Tribunal came to the conclusion that the constitution of the committee was improper the correct course was either to order a fresh inquiry with the constitution of a new committee, or to hold the inquiry itself into the merits of the charges, it appears that the Tribunal is not aware of its powers under the Act. Act read together give ample power to the Tribunal as are vested in the Appeal Court under the Civil Procedure Code, 1908. The Tribunal could therefore have remanded the matter for a fresh inquiry or disposed of the matter by recording the evidence itself. The failure on the part of the Tribunal to do so has resulted in an avoidable delay of about four years and has undoubtedly resulted in hardship to both the parties.

7. Even the dictum of the Apex Court in the reported decision in the case of State of Punjab (supra) will be useful. It has observed in Para 3 of the said decision as follows:

3. ...It is now a well settled law that when the enquiry was found to be faulty, it could not be proper to direct reinstatement with consequential benefits. Matter requires to be remitted to the disciplinary authority to follow the procedure from the stage at which the fault was pointed out and to take action according to law. Pending enquiry, the delinquent must be deemed to be under suspension. The consequential benefits would depend upon the result of the enquiry and order

passed thereon. The High Court had committed illegality in omitting to give the said direction....

8. Applying the principle enunciated in the aforesaid decisions, the appropriate course, to my mind, is to relegate the parties before the Tribunal, which in turn, will enquire into the matter on merits of the charges itself by affording fair opportunity to both the sides, including of adducing evidence as may be permissible by law on merits of the charges. The parties in the present case have no objection for adopting that course. Accordingly, this petition succeeds. The order passed by the Tribunal is set aside and the Appeal is restored to the file of the Tribunal for being considered afresh in the light of the observations made hereinbefore.

As can be seen from the said judgment in the said case, the inquiry was found vitiated on account of the breach of principles of natural justice and, therefore, learned Judge had remanded the matter back to the School Tribunal by giving opportunity to the parties to lead evidence before it and thereafter the Tribunal was to consider the matter on merits. The learned Single Judge has relied upon the judgment of the Apex Court in the matter of State of Punjab and Others Vs. Dr Harbhajan Singh Greasy, , where the Apex Court has held that when the enquiry was found to be valid, it could not be proper to direct reinstatement with consequential benefits but matter requires to be remitted to the disciplinary authority to follow the procedure from the point at which the fault was pointed out and to take action in accordance with law. Pending enquiry, the delinquent must be deemed to be under suspension. It is, therefore, the submission of learned Senior Counsel that since the enquiry was found to be vitiated by the Tribunal it was for it to direct the parties to lead evidence before it and then decide the matter or remand the matter back to the Management for de novo enquiry. Having not found it fit to try the matter itself by directing the parties to lead evidence, the Tribunal ought to have allowed the Management to conduct a de novo enquiry. The learned Senior Counsel, therefore, submitted that the impugned order passed by the School Tribunal is against well settled principles of law and, therefore, requires to be set aside.

9. On behalf of the Respondent No. 1, Shri S.S. Jadhavar, the learned Counsel submitted that it is not in every case that the course propounded in the judgment of the learned Single Judge need be followed. According to the learned Counsel it would depend upon the facts of each case. In the instant case, according to the learned Counsel, the Tribunal taking into consideration the facts of the case did not follow the said course of action and directed the reinstatement of the Respondent No. 1 with back wages. The learned Counsel submitted that the entire exercise of holding an enquiry against the Respondent No. 1 and terminating her services is a pre-determined act of the petitioners and mala fide. It is the submission of the learned Counsel that the petitioners want to remove the Respondent No. 1 from the post of Head Mistress at any cost. The learned Counsel submitted that the members of the said Sant Savata Ashram

Trust are not favourably inclined towards the Respondent No. 1 on account of the fact that she belongs to a different caste than the members of the Trust who all belong to the Mali community. Learned Counsel submitted that prior to her termination on 13-12-2006, the petitioner had made two earlier attempts to get rid of the Respondent No. 1 as Head Mistress. The learned Counsel submitted that the following events would make it ex facie clear that the entire exercise of the petitioners is mala fide and an act to victimize the Respondent No. 1, since she belongs to different community.

I). Though the Respondent No. 1 is appointed as Head Mistress on 1-1-2005, at the instigation of the Management, one Manik Tukaram Bankar working as Assistant Teacher in the primary school, had filed Appeal against promotion of the Respondent No. 1 as Head Mistress sometime in December 2005 i.e. almost after a year of her appointment though the said Bankar had not protested after the appointment of the Respondent No. 1 on 1-1-2005. The said Appeal filed by Bankar came to be allowed by the School Tribunal. However, in the Writ Petition No. 8369 of 2006 filed by the Respondent No. 1, stay has been granted to the Respondent No. 1. This, according to the learned Counsel, was the first attempt to remove the petitioner from the said post of Head Mistress.

II). The second attempt was made by the petitioner Management in view of the fact that no interim reliefs were granted to the said Bankar in the Appeal filed by him in Writ Petition No. 254 of 2005. The Respondent No. 1, therefore, by Order dated 19-1-2006 was reduced in rank from the post of Head Mistress in the school to the post of Assistant Teacher in the primary school. This was without any justification and without following the procedure. The learned Counsel for the Respondent No. 1 submitted that the extent of the grudge of the petitioners against the Respondent No. 1 can be seen from the fact that instead of reducing the Respondent No. 1 in rank to the post of Assistant Teacher in the secondary school where she was working as Head Mistress, she was reduced in rank by reducing her to the post of Assistant Teacher, Primary. The said order of the Management was challenged by the petitioners by filing Appeal No. 5 of 2006 before the School Tribunal in which Appeal, learned Presiding Officer was pleased to grant stay to the impugned order and accordingly the Respondent No. 1 was continued in the post of Head Mistress inspite of the order dated 19-1-2006 reducing her in rank.

III). The second attempt for removing the Respondent No. 1 from the post of Head Mistress having failed, the petitioners herein, according to the learned Counsel, initiated the third attempt by issuance of the show cause notice in February 2006. The said show cause notice initially consisted of two charges. One charge was relating to an event which took place in the year 1999 i.e. Respondent No. 1 having acquired B.Ed. qualification for which she was granted permission by a Resolution of the Management which was communicated to her vide letter of the said Trust and the second charge was regarding drawing of the salary from the school from June 2004 to September 2004. The Respondent No.

1 replied to the said charges. The Management applied to the Education Officer for permission to suspend the Respondent No. 1 which was refused by the Education Officer. Piqued by the said fact that the Education Officer has refused permission to suspend the Respondent No. 1, one more charge was added to the charges already levelled against the Respondent No. 1 so as to make gravity of the charges levelled against the Respondent No. 1 more serious.

IV). It is the submission of the Respondent No. 1 that there is absolutely no merit in any of the three charges which are levelled against her. In so far as the charge No. 1 of drawing salary from both the schools for the period from June 2004 to September 2004 is concerned, it is the case of the Respondent No. 1 that since she was working in both the primary and secondary section as per the directions of the Management, her name appeared in both the muster rolls. On coming to know that salary was drawn in her name in both for primary and secondary section, the Respondent No. 1 had refunded the amount drawn for the primary section for the period from June 2004 to September 2004 which was accepted by the Pay Unit of the Municipal Council without demur. In so far as second charge is concerned of completing the course of D.Ed. as a regular student in the year 1999-2000 when she worked in the school for the entire academic year, it is firstly the case of the Respondent No. 1 that the said charge has been unearthed after a period of six years of she having completed the said course. It is further case of the Respondent No. 1 in respect of the said charge that on account of the hard work and dexterity shown by the Respondent No. 1, the Management itself had approved the Respondent No. 1 joining said B. Ed. Course for acquiring higher qualification. A Resolution was passed by the Management and approval was granted to the Respondent No. 1. Some of the persons, who are presently the office bearers of the said Trust were also the office bearers at the said time, when approval was granted to the petitioner to pursue the said course. The documents have been annexed to the affidavit in reply filed on behalf of the Respondent No. 1. Therefore, according to the Respondent No. 1, the said charge is just being cooked up to facilitate an enquiry being held against the Respondent No. 1 so that she could be removed from the said post of Head Mistress.

In so far as third charge is concerned, it is the case of the Respondent No. 1 that the said charge did not find place in the original show cause notice issued to the Respondent No. 1 in the month of February 2006 but has been issued just to increase the gravity of the seriousness of the charges levelled against the Respondent No. 1. It is the case of the Respondent No. 1 that the Management has now gone to the extent of preparing bogus documents so that an inquiry could be held against the Respondent No. 1 on the said trumped up charge. It is further case of the Respondent No. 1 that a bogus muster roll was prepared by the Management and was brought for the signature of the Respondent No. 1 by the concerned Clerk but the Respondent No. 1 on becoming suspicious, refused to sign the said muster roll and in fact issued a memo to the concerned Clerk for preparing such a muster roll. This act of issuance of memo to the Clerk was not

liked by the Management and, therefore, the Respondent No. 1 was warned by the Management not to issue such memos in the future. It is the submission of the learned Counsel for the Respondent No. 1 that the falsity of the charge can be judged from the fact that ultimately what benefit a Head Mistress can possibly derive by preparing two muster rolls. The said charge, according to the learned Counsel was innovated only to facilitate enquiry against the Respondent No. 1. Since the prayer of the petitioners is that the Management should be permitted to conduct a de novo enquiry against the Respondent No. 1. The Respondent No. 1 has filed a detailed affidavit in reply as to why the petitioners are not entitled to the said relief. The learned Counsel for the Respondent No. 1 further submitted that it is not as if the petitioners were taken by surprise in respect of defect in enquiry held by them. It is submitted by the learned Counsel that in the grounds of Appeal itself specific grounds have been taken inter alia to demonstrate as to how the enquiry held against the Respondent No. 1 was vitiated. The petitioners opposed the said appeal in all seriousness and justified their conduct by contending that the enquiry held against the Respondent No. 1 was legal and proper and, therefore, no interference was necessary with the punishment imposed upon the Respondent No. 1. According to the learned Counsel, the petitioners having not corrected themselves and having invited the order of the School Tribunal, it was not now open for them to contend that they should be allowed to conduct de novo enquiry against the Respondent No. 1. The learned Counsel submitted that the enquiry was commenced sometime in February 2006 and which culminated on 30-12-2006. Therefore, the Respondents have virtually consumed a period of 10 months. The learned Counsel further submitted that it is not as if the petitioners are laymen. The petitioners' Trust is an old Trust and is in existence since long. The Chairman of the said Trust is a lawyer and, therefore, it cannot be said that the mistake committed by them by conducting the enquiry in the manner they have done is genuine or bona fide. The learned Counsel for the Respondent No. 1 relied upon the judgment of the Full Bench of this Court. Paragraph 65 of the said Full Bench judgment reported in 2007 (3) Mh.L.J. 753 in the matter of Saindranath S/o. Jagannath Jawanjal v. Pratibha Shikshan Sanstha and Anr. is relevant and is reproduced herein under :

65. But this should not be understood as placing fetters on the powers of the Tribunal. It is always open to the Tribunal to exercise its powers on the peculiar facts and circumstances of each case as it deems just and necessary in the interest of justice. Take a case where the management is not in a position to hold enquiry because of the situation brought about by the employee himself making it impossible for the management to hold enquiry before taking punitive action against him, in such contingency, the School Tribunal is not powerless to permit the School management to lead evidence to prove the act of misconduct before it to support its action. This legal sanction in law is implicit in Sub-rule (b) of Rule 27 of Order 41 of CPC which reads as "...for any other substantial cause". This clause gives wide discretion to the Tribunal, which, no doubt, is required to be

exercised judiciously for the reasons to be recorded. But, exercise of such powers in every case; in a routine manner would take away the very object of the legislation meant to provide the employees security and stability of service to enable them to discharge their duties effectively and efficiently. Therefore, such power is available for being exercised only in the extremely exceptional cases and in compelling circumstances and not in a routine manner in every case.

10. The reference to the Full Bench was made on account of the divergence of views between the two Benches of this Court in the matter of whether evidence could be allowed to be led before the School Tribunal to supplement the respective case of the parties before it. The appellant teacher in the said case was accused of offence of rape on his student. In view of the situation that had arisen on account of allegation against the appellant in that case, his services were terminated without holding an enquiry. The appellant had challenged the said termination before the School Tribunal. The School Tribunal had set aside the termination on the ground that it was illegal as no enquiry was held against him. The Management had, therefore, sought to prove misconduct of the Appellant before the Tribunal. It is in the context of the said facts that the Full Bench held that the legal sanction to lead evidence before the School Tribunal is implicit in Sub-rule (b) of Rule 27 of Order 43 of the CPC which reads as "for any other substantial cause". But exercise of such power in every case in routine manner would take away the very object of the legislation to provide the employees the security and stability of service to enable them to discharge their duties effectively and efficiently. Therefore, such power is available for exercise only in extremely exceptional cases in the compelling circumstances and not in a routine manner in every case.

11. I have given my anxious consideration to the rival contentions. It is significant to note here that the enquiry has been found to be vitiated on three counts namely; that the person competent to issue the statement of allegations i.e. the President of the Management has not issued the said statement of allegation, secondly, the constitution of the Inquiry Committee was not proper as the President was not part of the Inquiry Committee and did not act as the Convener and thirdly that the termination order has been issued by a person incompetent to issue it. The question as indicated herein should the Management be permitted to hold a de novo enquiry against the Respondent No. 1. For consideration of the said question, the observations of the Full Bench in para 65, in my view, are relevant. The Full Bench has taken into consideration the judgment of the Apex Court in the matter of State of Punjab and Ors. v. Dr. Harbhajan Singh Greasy and Ors. (supra) and the Judgments cited before it and thereafter it has concluded in the manner it has done in paragraph 65 of the said judgment. The question that begs an answer is, is the present case an exceptional case to warrant a de novo enquiry into the charges levelled against the Respondent No. 1 Looking to the background of the conspectus of facts prior to the issuance of the statement of allegations issued to the Respondent No. 1, in my view, the course of action of allowing the petitioners to hold a de novo

enquiry is not warranted in the instant case.

12. It is pertinent to note that the Respondent No. 1 was appointed as a Head Mistress on 1-1-2005. There was a change in Management in June 2005 and it seems that thereafter the real trouble started for the Respondent No. 1. The allegation of the Respondent No. 1 that the appeal filed by the said Shri Bankar was at the instigation of the Management is not without substance. The said Appeal came to be filed in December 2005 after the Respondent No. 1 was appointed in January 2005. Having failed to secure any reliefs against the Respondent No. 1 in the said Appeal, the Management took a drastic step of reducing the Respondent No. 1 to the rank of the Assistant Teacher in the primary section when the Respondent No. 1 was working in the secondary section. The said order of reduction in rank having been stayed, resulted in the third attempt to remove the Respondent No. 1 from the post of Head Mistress by issuance of the statement of allegations.

13. Normally, this Court would not have gone into the merits of the allegations made against the Respondent No. 1, but in the context of the reliefs sought by the petitioners abovenamed and in the context of the opposition of the Respondent No. 1 to the said relief, this Court thought it fit to atleast prima facie see as to whether the allegations of the Respondent No. 1 against the petitioners that the entire exercise is mala fide are substantiated or not. In my view, looking to the nature of the allegations in the charge sheet and the petitioners' explanation to the same, which have been mentioned in the earlier part of this judgment, I find that there is considerable merit in the submission of the learned Counsel for the Respondent No. 1 that the said exercise is mala fide.

14. Another aspect to be noted is that the Respondent No. 1, in the Appeal filed by her before the School Tribunal, has specifically raised the grounds regarding the manner in which the enquiry against her is vitiated. Violation of Rule 36, 37 and 38 have been specifically pleaded in the said Appeal. The petitioners have in their reply justified the conduct of the enquiry against the Respondent No. 1. After subjecting the Respondent No. 1 to the rigmarole of a full fledged enquiry for a period of 10 months, in my view, it would not be just and proper to relegate the matter back to the management for holding a fresh enquiry. The manner in which the petitioners have proceeded against the Respondent No. 1 does not inspire confidence and, therefore, the contention of the learned Counsel for the Respondent No. 1 that the petitioners are bent upon to remove the Respondent No. 1 by hook or by crook appears to be well founded.

15. It is pertinent that the School Tribunal also considered the findings recorded by the Inquiry Committee and has made observations in the impugned order as regards the said findings. Since the Tribunal has not followed either of the courses contemplated in the judgment reported in 2004 Mh.L.R. 173, it would have to be held that the Tribunal did not deem it fit to follow the said course in the facts and circumstances of the instant case. For the reasons stated earlier in this judgment the order of the Tribunal cannot be faulted with. In that view of

the matter, no case for interference in the writ jurisdiction of this Court under Article 226 and 227 of the Constitution is made out. The Writ Petition is accordingly dismissed. Rule discharged.