Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10528 OF 2011

Raghunath s/o Namdeo Pilore,
Age 50 years, Occu: at present nil
R/at 03/4 Gurujyot society,
Duttmandir Road, Nashik R,
Taluqa and District Nashik

... Petitioner

Vs.

1. **The President,**
   Lokjagruti Shikshan Mandal,
   Nashik road, Tq. And Dist. Nashik
2. **The Incharge Head Master**
   New English School, Vihitgaon,
   Deolali, Tq. And Dist. Nashik.
3. **The Education Officer, (Secondary)**
   Zilha Parishad, Nashik

...Respondents

Mr. Anilkumar K. Patil with Mr. Digvijay A. Patil with Mr. Laxmikant Patil, for Petitioner.

Ms. Mrunalini V. Panchal, for Respondents.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 02, 2026.

PRONOUNCED ON : APRIL 16, 2026

JUDGMENT:

1. The present petition is directed against the impugned judgment and order dated 9 October 2009 passed by the Presiding Officer, School Tribunal, Nashik in Appeal No.NSK/14/2005, whereby the said appeal came to be decided. The petitioner seeks quashing and setting aside of the said judgment and order.

2. The facts giving rise to the present petition, in brief, are as follows. Respondent No. 1 is a registered educational institution running a school known as New English School, Vihitgaon, Deolali, Taluka and District Nashik, which is arrayed as Respondent No.2. The petitioner possesses the qualifications of B.A., and B.Ed. (Physical) and was initially appointed as an Assistant Teacher in the year 1982 in the said school. Subsequently, in the year 1987, the petitioner was promoted to the post of Head Master. It is further the case of the petitioner that since the year 1993, he was also functioning as a Director of the respondent institution. It is not in dispute that Crime No. 110 of 2004 came to be registered against the petitioner at Bhusawal Police Station for offences punishable under Sections 306 and 420 read with Section 34 of the Indian Penal Code, and the said incident was reported in a newspaper. On the basis of such publication, the petitioner was placed under suspension on 25 October 2004. The petitioner was thereafter released on bail on 01 March 2005. According to the petitioner, upon his release, when he attempted to resume duties, he was not permitted to do so by the respondent institution. Thereafter, on 30 May 2005, an Inquiry Committee was

constituted and a charge-sheet dated 23 July 2005 was issued to the petitioner. It is the grievance of the petitioner that no documents were supplied along with the charge-sheet. Consequently, on 08 August 2005, the petitioner sought supply of documents to enable him to submit an effective reply. However, according to the petitioner, no such documents were furnished, and the inquiry proceedings were completed ex parte.

3. The petitioner has further contended that the constitution of the Inquiry Committee itself was not in accordance with law. It is specifically urged that the Convener of the Committee, Shri Uttamrao Handore, was not the President of the respondent institution, thereby rendering the Committee improperly constituted. It is also contended that no opportunity was afforded to the petitioner to nominate his representative on the Inquiry Committee. According to the petitioner, the entire inquiry was conducted in his absence and without granting him any reasonable opportunity of being heard. The petitioner asserts that relevant documents were not supplied, nor was he afforded an opportunity to cross-examine the witnesses. It is further contended that even the names of the members of the Inquiry Committee were not communicated to him. The petitioner points out that the first meeting of the Inquiry Committee was held on 7 July 2005, whereas the charge-sheet was issued subsequently on 23 July 2005, which, according to him, amounts to a clear violation of Rule 37 of the MEPS Rules, 1981. It is also urged that the respondent institution failed to call for the petitioner's explanation

on the findings recorded by the Inquiry Committee. The petitioner has further alleged that the charges framed were vague and not in conformity with Rule 28(5) of the MEPS Rules, 1981. It is his case that there existed internal disputes within the management and that the disciplinary action was initiated with a predetermined intention to dismiss him from service. The petitioner has also contended that no subsistence allowance was paid during the period of suspension. On these grounds, it is contended that the entire inquiry stands vitiated and the order of dismissal based thereon is illegal, giving rise to the present proceedings.

4. Per contra, Respondent Nos. 1 and 2 have filed their written statement resisting the petition and have denied all allegations made therein. It is their contention that after the petitioner's appointment as Head Master was approved by Respondent No. 3, the petitioner started harassing the office bearers of the respondent institution. It is alleged that the petitioner prevented the office bearers from entering the school premises and issued threats of serious consequences, thereby creating an atmosphere in which it became difficult for the management to take action against him. The respondents have further contended that the petitioner was engaged in private business activities, including running a brickyard and operating trucks, and had utilised school employees for his personal business. It is further alleged that the petitioner forged the signatures of office bearers and issued appointment orders to certain employees, and even obtained approval from Respondent No. 3 on the basis of such forged

documents. According to the respondents, the petitioner has committed serious misconduct and has defrauded several individuals by falsely promising employment. It is stated that in view of such conduct, Crime No.110 of 2004 came to be registered against the petitioner on 30 September 2004. The respondents assert that the petitioner failed to inform the institution about the criminal proceedings. It is further contended that the petitioner remained unauthorisedly absent from duty from 04 September 2004.

5. The respondents have further submitted that a show-cause notice dated 4 May 2005 was issued to the petitioner by post, which the petitioner deliberately avoided accepting. It is their case that the said notice was thereafter sent under certificate of posting and was duly received by the petitioner, though no reply was submitted. The respondents have stated that subsequent correspondence was also sent through registered post as well as under UPC. It is contended that sufficient opportunity was granted to the petitioner to nominate his representative on the Inquiry Committee. According to the respondents, the petitioner attended the meeting of the Inquiry Committee held on 23 July 2005, at which time the charge-sheet was served upon him. However, thereafter, the petitioner failed to participate in the inquiry proceedings and did not submit any reply to the charge-sheet. The respondents have denied that any request for documents was made by the petitioner and have asserted that despite adequate opportunity, the petitioner chose not to participate in the inquiry.

Consequently, the Inquiry Committee proceeded ex parte. It is further contended that copies of oral evidence and documents were furnished to the petitioner. Upon consideration of the material on record and the service record of the petitioner, the management resolved to dismiss the petitioner from service with effect from 20 September 2005. The respondents assert that the inquiry was conducted strictly in accordance with the applicable legal provisions and that adequate opportunity was afforded to the petitioner at all stages, including supply of inquiry proceedings, despite which no further explanation was submitted.

6. The respondents have additionally contended that the petitioner had submitted fabricated documents to various institutions and had forged signatures of office bearers, thereby creating false records and causing financial and administrative loss to the respondent institution as well as other entities. It is further stated that after the dismissal of the petitioner, further instances of criminal conduct came to light. According to the respondents, the petitioner failed to discharge his duties in accordance with law while serving as Head Master and had grossly misused his position, thereby committing serious acts of misconduct. In view of the gravity of the allegations and the material available on record, the respondent institution deemed it appropriate to dismiss the petitioner from service. Hence, the present petition arises.

Mr. Anilkumar Patil, learned Advocate appearing for the petitioner, submitted that it is an admitted position that the petitioner had been serving as Head Master since the year 1987 and had rendered

long and unblemished service with the school run by the respondent institution. It was urged that the constitution of the said Inquiry Committee was contrary to law inasmuch as Shri Uttamrao Handore was nominated as Convener despite the fact that he was neither the President nor even a member of the respondent institution. Learned Senior Counsel submitted that Rule 36(2)(b)(1) of the MEPS Rules, 1981 mandates that the President of the management shall be a member of the Inquiry Committee and, therefore, the very constitution of the Committee stood vitiated. It was further contended that the petitioner was denied a fair opportunity of hearing before the Inquiry Committee and that the charge-sheet came to be served upon him only on 23 July 2005 during the second meeting of the Committee.

7. Learned Counsel further invited attention to the documents placed on record and submitted that the proceedings of the inquiry itself disclose that on 08 August 2005 the petitioner had made a formal application before the Inquiry Committee seeking supply of documents necessary for defending himself. Though the proceedings record such request, no documents were supplied to him at that stage. Reliance was placed upon the communication dated 30 August 2005 to demonstrate that the management itself had indicated that the documents would be furnished in the subsequent meeting of the Inquiry Committee. It was submitted that although documents were ultimately furnished, the same were supplied only after six meetings of the Inquiry Committee had already taken place. According to the petitioner, in absence of the

relevant documents, he was deprived of the opportunity to submit his explanation to the charge-sheet. It was further contended that witnesses of the management were examined prior to supply of documents to the petitioner, which constitutes a clear violation of the principles of natural justice and reflects bias on the part of the Inquiry Committee. Learned Senior Counsel further submitted that the seventh and final meeting of the Inquiry Committee was held on 19 September 2005, yet no copy of the summary of proceedings or inquiry report was furnished to the petitioner, nor was any opportunity granted to him to offer a further explanation. It was, therefore, urged that there was complete non-compliance with Rule 37 of the MEPS Rules, 1981. It was additionally submitted that the respondent institution dismissed the petitioner from service on 20 September 2005 without passing any formal resolution, which itself demonstrates the prejudged and biased attitude of the management.

8. Per contra, Ms. Mrunalini Panchal it was submitted on behalf of the respondent management that although the petitioner had been working as Head Master since 1987, disciplinary proceedings came to be initiated only upon serious allegations of misconduct, wilful negligence, dereliction of duty, and failure to discharge obligations contemplated under Rule 28 of the MEPS Rules, as also allegations of cheating members of the public and employees of the institution. It was submitted that the management initially sought the petitioner's explanation by issuing a show-cause notice dated 4 May 2005 through registered post as well as under

certificate of posting. However, despite service thereof, the petitioner failed to submit any explanation. Consequently, the management resolved to initiate disciplinary proceedings. It was contended that the petitioner had been lawfully placed under suspension and was thereafter requested to nominate his representative on the Inquiry Committee, but he failed to communicate the name of his nominee despite sufficient opportunity. In such circumstances, the management constituted the Inquiry Committee comprising two members, namely Shri Uttamrao Rajaram Handore, stated to be the President of the respondent institution and representative of the management acting as Convener, and Shri P.B. Hingmire, a State Award-winning teacher.

9. It was further submitted that the first meeting of the Inquiry Committee was convened on 9 July 2005, which the petitioner failed to attend. It was pointed out that despite having received the show-cause notice and charge-sheet, the petitioner did not submit any explanation thereto. The second meeting of the Inquiry Committee was held on 23 July 2005, which the petitioner attended, and during the said meeting the charge-sheet containing 36 charges came to be served upon him. Learned Counsel appearing for the respondents placed reliance upon the decisions in *Mohd. Irshad Ahmad v. Talha Education and Welfare Society, Karajgaon and Others, reported in* 2012 (3) Mh.L.J. 291, and *Khune Devanand Nagnath (Died) through LRs Prabhawati Devanand Khune and Others v. Terna Public Charitable Trust and*

Others, Writ Petition No. 6621 of 2012, in support of the contention that where sufficient opportunity is granted, but the delinquent employee fails to participate, the inquiry cannot thereafter be faulted on the ground of denial of opportunity.

10. Learned Advocate appearing for the respondents, submitted that as many as 36 charges were levelled against the petitioner and, considering the gravity of the misconduct alleged, a detailed statement of allegations accompanied the charge-sheet. It was submitted that the statement of allegations was dispatched to the petitioner through multiple modes including RPAD and certificate of posting, and despite receipt thereof the petitioner failed to submit any reply. According to learned Counsel, such conduct on the part of the petitioner amounts to implied admission of the allegations. It was further submitted that by communication dated 30 May 2005, the petitioner was specifically directed to nominate his representative on the Inquiry Committee; however, despite ample opportunity, he failed to do so, compelling the management to proceed with constitution of the Committee comprising two members. Learned Counsel submitted that the petitioner consciously abstained from the inquiry proceedings and effectively abandoned the same. It was urged that sufficient and reasonable opportunity had been afforded to the petitioner at every stage to submit his explanation to the charge-sheet and statement of allegations, but he deliberately chose not to avail of the same.

11. Learned Counsel for the respondents further submitted, with reference to the documents on record, that during the meeting

dated 23 July 2005 the charge-sheet was duly furnished to the petitioner, and he was granted opportunity to respond thereto. It was contended that the proceedings of the Inquiry Committee clearly establish that adequate and reasonable opportunity had been granted to the petitioner to defend himself, but the petitioner failed to avail of the same. It was pointed out that the petitioner attended only one meeting of the Inquiry Committee and thereafter remained absent, and therefore he cannot legitimately contend that no hearing was afforded to him. Learned Counsel further drew attention to documentary material placed before the Inquiry Committee, including a complaint lodged by one Ms. Monali C. Suryavanshi on 2 September 2004, to demonstrate the petitioner's alleged involvement in serious offences. It was submitted that Charge No. 1 stood proved against the petitioner, namely that he had intentionally deceived several unemployed youths, dishonestly induced them to part with money upon false assurances of employment, and that one such youth committed suicide on account of such deception. It was further submitted that offences of forgery in connection with obtaining loans were also registered against the petitioner. In addition thereto, while functioning as Head Master, the petitioner allegedly deducted provident fund contributions from teaching and non-teaching staff but failed to deposit the same with the provident fund authorities. It was, therefore, submitted that ample material existed on record demonstrating serious misconduct on the part of the petitioner and that it was neither proper nor desirable to continue such person in

service. According to the respondents, the Inquiry Committee strictly adhered to the procedure prescribed under the MEPS Rules, 1981 and no violation of principles of natural justice has occurred. On these grounds, dismissal of the petition was prayed for.

REASONS AND ANALYSIS:

12. Upon giving anxious consideration to the rival submissions advanced by the respective parties and upon careful perusal of the material available on record, the principal issue, therefore, which requires determination is whether the action initiated by the management was a bona fide exercise of disciplinary power in accordance with law, or whether the same was merely adopted as a colourable exercise with predetermined intention to remove the petitioner from service.

13. The record indicates that a show-cause notice had been issued to the petitioner well before culmination of the inquiry proceedings. The petitioner did not submit any reply thereto. It further appears that the petitioner was called upon to nominate his representative on the Inquiry Committee, but he failed to do so. In such circumstances, the management proceeded further with the disciplinary process. Material is also available to indicate that the petitioner attended at least one meeting of the Inquiry Committee and was served with the charge-sheet during the meeting held on 23 July 2005. This circumstance prima facie demonstrates that the petitioner had knowledge of the proceedings initiated against him.

14. The further grievance raised on behalf of the petitioner regarding delayed supply of documents also requires close and cautious scrutiny by this Court, particularly because allegations touching breach of natural justice cannot be brushed aside lightly in disciplinary matters. It is a settled position that no delinquent employee can be expected to submit defence to serious charges unless he is made aware of the allegations and is furnished with such material as forms the foundation of those allegations. It is well settled that every delay or irregularity in supply of documents cannot by itself result in nullification of the entire inquiry proceedings. The Court is not expected to invalidate disciplinary proceedings merely because some procedural imperfection is pointed out. The real test is whether such delay has in fact occasioned prejudice of substantial nature to the delinquent employee. That aspect assumes importance. In the present matter, it is the case of the petitioner that he sought documents by making application dated 8 August 2005 and despite such request the same were not immediately furnished to him. On the other hand, the respondents have contended that the documents and proceedings were subsequently supplied and that even thereafter the petitioner failed to participate in the inquiry. Thus, even if this Court proceeds on the assumption that there was some delay in furnishing the documents, the question still survives as to whether such delayed supply caused prejudice as would render the entire inquiry unfair and unsustainable. The Court has to examine whether despite opportunities being made available, the petitioner

abstained from participation, avoided furnishing his explanation, and chose not to cooperate with the disciplinary proceedings. The record relied upon by the respondents indicates that after the initial stage, the petitioner remained absent and did not submit any explanation to the charges levelled against him. In such circumstances, the plea of prejudice cannot be accepted merely upon assertion. The petitioner must demonstrate as to in what manner the alleged delayed supply of documents altered his defence or materially affected the result of the proceedings. Such prejudice is not demonstrated from the record placed before this Court.

15. At this juncture, the principles enunciated by the Supreme Court in *ECIL v. B. Karunakar*, (1993) 4 SCC 727 assume provide guidance in adjudicating the controversy at hand. The Supreme Court has held that allegations of denial of inquiry report or denial of reasonable opportunity are not to be examined in a mechanical manner. The Court must not proceed on the assumption that every procedural irregularity ipso facto vitiates the disciplinary proceedings. Rather, the approach must be to ascertain whether prejudice has been caused to the employee concerned. The Supreme Court has cautioned that unless the procedural lapse complained of has impacted the defence of the delinquent or has altered the outcome of the proceedings, the punishment cannot be interfered. This principle squarely applies to the facts of the present matter. Even assuming that certain procedural deficiencies may have occurred during the course of inquiry, the question

remains whether such deficiencies changed the position of the petitioner or deprived him of defence. On the material presently before this Court, it appears that the petitioner failed to avail himself of several opportunities extended to him. He did not submit reply to the show-cause notice. He failed to nominate his representative on the Inquiry Committee despite being called upon to do so. He attended only one meeting of the Inquiry Committee and thereafter did not participate in the subsequent proceedings. Therefore, it cannot be accepted that the inquiry was concluded behind the back of the petitioner or that he was deprived of opportunity to defend himself.

16. Likewise, the submission that the inquiry report itself was not furnished to the petitioner also does not improve his case. The legal position in that regard is no longer res integra. It now stands settled that mere non-supply of the inquiry report, in absence of proof of actual prejudice, does not invalidate the order of punishment nor does it by itself compel the Court to interfere. The Court must undertake a examination whether supply of such report, had it been made earlier or in a different manner, would have brought about any difference in the defence of the employee. In the facts of the present case, it cannot be overlooked that the petitioner was aware of the charges levelled against him. He had knowledge of the allegations and had sufficient occasion to respond thereto. Despite such awareness and despite opportunities being afforded, he neither remained present throughout the proceedings nor submitted any explanation on merits. Therefore,

in these circumstances, it becomes difficult for this Court to conclude that non-supply of the inquiry report has resulted in miscarriage of justice. Hence, the contention founded upon alleged non-supply of the inquiry report cannot be accepted as sufficient to vitiate the impugned action.

17. Reliance has been placed by the petitioner upon the judgment of this Court in *Mohd. Irshad Ahmad* to contend that non-compliance with Rule 37(4), (5), and (6) of the Maharashtra Employees of Private Schools Rules, 1981 would vitiate the order of dismissal. The applicability thereof must depend upon the factual matrix of each individual case. The said decision proceeded on dates showing that the management therein had acted before the waiting period expired. Thus, the ratio of the said judgment rests upon a finding that the employee therein was denied the very period guaranteed under the Rules for furnishing his further defence. Further, it requires mention that even in the judgment of *Mohd. Irshad Ahmad*, the Court was dealing with a situation where the employee had participated in the inquiry and the grievance arose at the final stage when his statutory right to furnish further explanation after receipt of summary of proceedings was directly curtailed. In the present case, the material on record reflects that the petitioner did not respond to the show cause notice at the threshold stage. He failed to nominate his representative despite opportunity. He attended only one meeting of the Inquiry Committee and thereafter remained absent from subsequent proceedings. Thus, the factual context

demonstrates not a case where an participating employee was denied final hearing despite participation, but a case where the delinquent himself abstained from participation in the proceedings from inception. Therefore, the prejudice occasioned in *Mohd. Irshad Ahmad* by termination of inquiry timeline is not shown with similar force in the present facts.

18. Moreover, even otherwise, the reliance on *Mohd. Irshad Ahmad* cannot be read in isolation without harmonising the same with the principles laid down by the Supreme Court in *ECIL v. B. Karunakar* that procedural fairness is tested on the touchstone of whether prejudice has been caused in the facts of the case. While *Mohd. Irshad Ahmad* recognises the character of the right under Rule 37(5), the present case does not reveal the same degree of deprivation of statutory opportunity as was present in that matter.

19. In that view of the matter, though this Court acknowledges the legal proposition laid down in *Mohd. Irshad Ahmad* that Rule 37 confers procedural safeguards which cannot ordinarily be ignored by the management, the said authority does not advance the petitioner's case in the peculiar facts of the present matter. Consequently, the reliance placed upon the said judgment is distinguishable on facts and does not persuade this Court to invalidate the disciplinary proceedings impugned herein.

20. This Court is also not persuaded to accept the submission that the management acted with bias that the disciplinary proceedings stood vitiated. Allegation of bias is a serious allegation

in law. It cannot be accepted on mere suspicion, assumption, or general assertions unsupported by material. Bias must be established by factual foundation. In the present case, the petitioner has sought to infer bias from the timing of events and from the constitution of the Inquiry Committee. However, the respondents have placed on record a factual narrative showing that repeated opportunities were extended to the petitioner to participate in the proceedings and to nominate his own representative, but he chose not to avail of the same. The documents further indicate that the petitioner was not excluded from the process nor kept uninformed of the proceedings. He was served with notices, informed of meetings, and furnished with the charge-sheet. Therefore, the record does not support a conclusion that the inquiry was conducted behind the petitioner's back. In such factual circumstances, the allegation of bias appears to remain at the level of suspicion rather than proof.

21. In overall analysis of the matter, this Court finds that the petitioner was aware of the disciplinary proceedings initiated against him and was afforded sufficient opportunity to meet the charges levelled against him. The petitioner has failed to demonstrate that such irregularity caused prejudice of such nature as would justify invalidating the disciplinary action. The principles laid down by the Supreme Court in *B. Karunakar* make it clear that the consideration in such matters is whether actual prejudice has been caused and not whether some procedural lapse has occurred. Applying the said principle to the present facts, this

Court finds that the petitioner has not established that the outcome of the disciplinary proceedings would have been different had the documents or inquiry report been supplied. On the contrary, the seriousness of the misconduct alleged, the fairness of the procedure adopted by the management and the petitioner's own repeated conduct of non-cooperation and abstention from proceedings collectively indicate that the disciplinary action cannot be said to suffer from such illegality as would warrant interference. In the considered opinion of this Court, therefore, the challenge raised by the petitioner to the disciplinary proceedings and consequential dismissal order does not merit acceptance. The petition, being devoid of substance, deserves to be dismissed.

22. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:

(i) The Writ Petition stands dismissed;

(ii) The judgment and order dated 09 October 2009 passed by the learned Presiding Officer, School Tribunal, Nashik in Appeal No. NSK/14/2005 is hereby upheld and confirmed;

(iii) The order of dismissal dated 20 September 2005 issued by Respondent Nos. 1 and 2 against the petitioner is held to be legal and valid and does not warrant interference in exercise of writ jurisdiction under Article 226 of the Constitution of India;

(iv) Rule stands discharged;

(vii) In the facts and circumstances of the case, there shall be no order as to costs.

(AMIT BORKAR, J.)