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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3028 OF 2003

Smt. Susheela Srinivasan

... Petitioner

Versus

Vidya Prasarak Mandal And Ors.

...Respondents

Mr. Vinayak R. Kumbhar a/w Mr. Rajendra B. Khaire & Mr. Aniket S. Phaple for the Petitioner.

Mr. Anjani Kumar Singh i/b Mr. Ramesh Jaiswal for the Respondent Nos. 1 and 2.

Mr. N.C. Walimbe, Addl. GP a/w Ms. S.D. Chipade, AGP for the State/Respondent No.3.

Mr. V.S. Paradkar for Respondent No.4.

CORAM : M.M. SATHAYE, J.

DATE : 24th JUNE, 2026

ORAL JUDGMENT :

1. This petition is filed taking exception to order dated 19.10.2002 passed in Appeal No.MUM/44/1995 by Presiding Officer, School Tribunal Mumbai. By the said order, the appeal filed by the Petitioner challenging the alleged unlawful termination (also termed as otherwise termination) order dated 20.03.1995, is dismissed.

2. Rule was granted and interim relief was rejected on 02.09.2003.

3. The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 is referred to as 'the said Act' for short and rules made thereunder are referred to as 'the said Rules' for short.

4. Brief background of the case is as under:

4.1. The Petitioner was appointed in Respondent No.2 school run by Respondent No.1-Management. The first appointment order is dated

18.07.1994 by which the Petitioner was appointed on purely temporary basis for a period of less than one month from 27.06.1994 to 13.07.1994. The second appointment letter is dated 18.07.1994 which again appointed the Petitioner on purely temporary basis for a period from 14.07.1994 to 30.04.1995 (less than a year). The incident giving rise to the dispute happened during this period under second appointment letter.

4.2 It is the case of the Petitioner that on 02.03.1995, she was called to the Principal's cabin and forced to resign from the services. It is further her case that because of depression, on 08.03.1995 she sent a resignation letter by post. It is contended that this resignation letter was received by the school on 10.03.1995 and was illegally accepted by the school committee on 11.03.1995. According to the Petitioner, she had withdrawn the resignation under letter dated 12.03.1995, which was received by the school-Management on 13.03.1995 and a leave application was also given on 14.03.1995. However, the withdrawal of resignation was not considered. According to Petitioner, the decision on resignation has been taken by the managing committee on 18.03.1995, which is after the 'letter withdrawing resignation' is issued by her. According to the Petitioner, ultimately on 20.03.1995 a letter was addressed to her by the school, informing that her resignation has been accepted and hence, she is released from the service. This gave rise to filing of an appeal before the School Tribunal, in which impugned order is passed.

5. Learned counsel for the Petitioner submitted that the School Committee was not competent to accept the resignation of the Petitioner and therefore decision of 11.03.1995 taken by school

committee will not amount to valid acceptance of resignation. That in view of pending letter withdrawing resignation (dated 12.03.1995), decision could not have been taken by the Managing Committee subsequently on 18.03.1995. He further submitted that the law requires under Section 7 the said Act that if an employee intends to resign from his post in any private school at any time after appointed date, it has to be done by a letter in duplicate, sent to the Management by registered post. Relying on Rule 40 of the said Rules, it is submitted that the Management could not have accepted the resignation without necessary one month notice given by the employee. Relying on Rule 10 of the said Rules, it is submitted that in the categories of employees provided, even a non-permanent i.e. either temporary or on-probation employee, who is appointed on a temporary vacancy for a fixed period is covered. That therefore Section 7 and Rule 40 have been breached and the acceptance of resignation is illegal. He relied on following judgments in support of his case that notice of resignation can be withdrawn at any time before acceptance and if the resignation is withdrawn before acceptance, the employee can be reinstated in service and that resignation letter not sent by registered post, does not conform with the requirement of Section 7 of the said Act.

- i. Balram Gupta Vs. Union of India & Anr. 1987 (Supp) SCC 228.
- ii. Ligia G. Godinho Vs. Speaker, Legislative Assembly, GOA and Ors. 1997(1) Mh.L.J. 130.
- iii. Shambhu Murari Sinha Vs. Project and Development India Ltd., & Anr. (2002)(3) Mah. L.R. 398.
- iv. S.D. Manohara Vs. Konkan Railway Corporation Ltd. & Ors. 2024 [5] Bom. C.R. 749 [Supreme Court].
- v. Damodar S/o. Vithalrao Raut Vs. Education Officer, Zilla Parishad

Nagpur & Ors. 2004 Vol. 106(3) Bom. L.R. 923.

vi. Bahujan Vikas Mandal, Akola & Anr. Vs. Manda Vithalrao Parsutkar & Anr. 2011 (2) Mh.L.J. 203.

6. On the other hand, learned counsel for Respondent Nos. 1 and 2 (Management and School) supported the impugned order contending *inter alia* that the Petitioner was appointed on 'purely temporary' basis and the appointment was not against a clear and permanent vacancy and therefore, she was not even on probation. He submitted that appointment is approved by office of the Deputy Director of Education, Greater Mumbai keeping discretion with the Management to change the schedule based on actual workload. He submitted that therefore, compliance with Section 7 as well as Rule 40, as insisted by the Petitioner was not strictly necessary. He submitted that since certain complaints were received against Petitioner in February, 1995 about her methods of teaching and dealing with the students, a letter was issued to her on 02.03.1995 advising the Petitioner to be more discreet in approach and to tone-up the method of instructions. He submitted that after this letter, the dispute started and the Petitioner did not attend the school and the school was required to issue a memo dated 06.03.1995 informing the Petitioner that she has remained absent from duty without prior intimation/permission of the Authorities, calling upon her to resume duty. He submitted that the School Committee consists of four members of Managing Committee and therefore it cannot be said that the Management was not involved in the decision making process of accepting the resignation. He submitted that on 09.03.1995, it was resolved that the Headmistress will be authorized to accept the resignation letter of the Petitioner. Without prejudice to above contentions, it is submitted that ultimately Managing Committee has

approved the acceptance of resignation by the Headmistress which is duly recorded in the minutes of Managing Committee meeting dated 18.03.1995. He submits that therefore it cannot be said that the decision to accept resignation is taken when the letter withdrawing resignation was pending. He further submitted that section 7 binds the Petitioner to send resignation in a particular manner and not the Management. He lastly submitted that under Rule 40, the Management has an authority to accept the resignation tendered prior to completion of notice period and terminate the services. He relied on the judgment of **Shriram Manohar Bande Vs. Uktranti Mandal and Ors. 2024 (4) ALL MR 344**, in support of his submissions.

7. Learned counsel for Respondent No. 4 (appointed in the place of Petitioner) has supported the impugned order.

8. Having considered the rival submissions of the learned counsel for the parties and on going through the record, in my view this is not a fit case to interfere, for following reasons:

9. At the outset, it is necessary to note that the appointment letter does not indicate that the Petitioner was appointed against a clear and permanent vacancy and the appointment itself is 'purely temporary' initially for a period of less than one month as part-time teacher and thereafter, for a period of less than one year as a full-time teacher. Perusal of the approval by the Education Department under letter dated 26.09.1994 clearly indicates that appointment of Petitioner on purely temporary basis is approved and the approval letter clearly states that schedule of teachers (including Petitioner at Sr. No. 2) is based on 'admissible workload' and in case 'actual workload' according to the time table is less than the workload shown, the change should be

communicated to the office. This is a clear indication of the fact that even as per the approval of the Education Department, the Respondent Management had full discretion about change in Petitioner's appointment. Therefore in the peculiar facts of this case, in my view, the Petitioner was not even on-probation.

10. So far as the aspect of complaint received against the Petitioner is concerned, that being in the realm of disputed questions of fact, this Court would not comment upon it. Suffice it to observe that facing difficulty with the reported working style of the Petitioner (as a teacher), the Management has chosen to issue advisory asking the Petitioner to be more discreet in the approach and tone-up the method of instructions. If the Petitioner has chosen to remain absent thereafter without permission of the authority resulting into classes remaining vacant and the Management facing difficulty at the crucial time of March in the academic year, when the examination of 10th and 12th standards are round the corner or going on, it is but expected from the Management that a memo was issued on 06.03.1995.

11. It is the case of the Petitioner, as pointed out by the learned counsel for the Petitioner from the appeal-memo before the Tribunal, that because a section of teachers including the supervisor did not like her approach and there were minor differences between the Principal and the Petitioner, on the issue of disciplining students, she was called in the cabin and asked to resign with a threat of issuing memo. However, it is also an undisputed fact that the Petitioner, almost 6 days thereafter, chose to send a resignation letter by post. Assuming that the Petitioner was forced to give resignation on 02.03.1995, it cannot be believed that 06 days thereafter when the Petitioner was not in

principal's cabin and not even attending the school, was under pressure. Therefore, the Petitioner's resignation letter dated 08.03.1995 sent by post, is itself sufficient to hold that she meant to resign from the school.

12. Mere reading of Section 7 of the said Act, makes it clear that it is a mandate given to the employee that he/she shall draw a letter in duplicate for resignation, sign both the copies and put a date thereon and then forward one copy to the Management by 'registered post' and keep other copy with him. If the Petitioner chooses to deviate from this mandate of law, then she cannot contend that non-compliance of Section 7 has to be interpreted against the Management.

13. Rule 40 of the said Rules clearly indicates that a non-permanent employee may leave service after giving one month calendar notice and the Management may allow such employee to leave service earlier on payment of pay excluding allowances for one month. Rule 40(2) clearly provides that if the Management allows an employee to leave service earlier without due notice or without making payment, a proportionate amount of pay in lieu of notice shall be deducted from the grant payable to the school. This is more than sufficient indication that even if resignation is accepted prior to notice period or without pay, it does not render the acceptance of resignation illegal *per se*. It only results in the school not getting the grant for one month period in case of non-permanent to employee.

14. Perusal of minutes of School Committee Meeting dated 09.03.1995 indicates that the absence of Petitioner from the school was brought to the notice of committee and it was discussed that the annual examination of the junior college was approaching and even some portion was still pending and it was resulting in students suffering for

want of teacher and instructions. The complaints received against the Petitioner were also discussed. It was also considered that the Petitioner was advised to improve the methods of instructions. It was informed that the Headmistress has issued memo dated 06.03.1995 calling upon the Petitioner to resume the duty, which memo is received by her on 07.03.1995; however she has not resumed duty so far, but has informed that she has posted the resignation letter which is not yet received. After discussion, the School Committee resolved that Headmistress in consultation with the office bearers is authorized to accept the resignation letter when received from the Petitioner and further authorized to appoint another person with immediate effect in the place of Petitioner till 15.04.1995 and conduct annual examination work.

15. These minutes clearly show that the school was facing difficulty because of the absence of the Petitioner and in the interest of students, a decision was taken to authorize the Headmistress to accept resignation. This meeting is attended by four persons from the Management Committee. It is also clear from the minutes that decision to accept the resignation letter was already taken before the Petitioner issued letter withdrawing resignation dated 12.03.1995.

16. In view of factually distinguishing factor that the resignation was accepted prior to the letter withdrawing resignation is even issued, the judgments relied upon by the Petitioner are clearly distinguishable. Also the employees involved in the said judgment not being appointed on 'purely temporary' basis makes the present case different. Therefore the judgments relied upon by the Petitioner will not advance her case.

17. Minutes of Managing Committee meeting dated 18.03.1995 also

clearly show that the Managing committee has approved the action taken by the office bearers of the School Committee by accepting the resignation.

18. In a recent judgment of **Shriram Manohar Bande (supra)** the Hon'ble Supreme Court, considering same section 7 and Rule 40 in similar factual background, has observed that since the School Committee consists of four representatives of the Management, it is evident that Management was involved in the process of considering and accepting the resignation letter. This supports the case of the Respondent-Management. In the present case, even though the resignation is not accepted by the Managing Committee, considering the exigencies of the situation, a decision taken by the School Committee with participation of four Managing Committee members, in the interest of students, duly approved / ratified by the Managing Committee later on, cannot be faulted.

19. The said judgment also considers section 7 and its purpose in paragraph No.16. It is observed by the Hon'ble Supreme Court that it provides protection to employees from unethical practices of Management by calling the employee and pressurizing or coercing them into signing blank documents. After considering the provision, the Hon'ble Supreme Court has held that it is imperative that the employee strictly adheres to Section 7 while submitting the resignation. It is further held that the employee forfeits the protection if he or she fails to adhere to the prescribed procedure. In the present case, it is an admitted position that resignation letter sent by the Petitioner by ordinary post has been received by the school on 10.03.1995. In that view of the matter there is no merit in the submission that 'resignation

is accepted in breach of Section 7 of the said Act’.

20. The Hon'ble Supreme Court in the said case has also observed in paragraph No. 18 that on a holistic reading of Rule 40, it can be concluded that Management is given authority to accept the resignation tendered prior to completion of the notice period and terminate the services.

21. As already observed above, Rule 40(2) provides for consequences if the resignation is accepted prior to notice period without pay. Non-payment would not render the acceptance of resignation illegal *per se* and the consequence would only be non-receipt of grant amount for the period involved.

22. Viewed in the light of what is observed above, I have perused the impugned order of the Tribunal. It has considered the material before it and has come to a right conclusion that ‘the otherwise termination’ was not illegal. Based on a letter / affidavit dated 27.03.2001, it is noted by the Tribunal that the Petitioner was already gainfully employed.

23. Therefore, there is no perversity in the impugned order. It is passed on the basis of material available. The view taken is most probable view. There is no reason to interfere.

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

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

(M.M. SATHAYE, J.)