



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 455 of 2020 with
WP(C) No. 456 of 2020

Date of Decision: 25.07.2025

WP(C) No. 455 of 2020

Smti. Felicita Rmen,
D/o Sephrin Paliar,
Resident of Village Nonglwai-II,
B.P.O Mawthungkper,
P.O Nongstoin, West Khasi Hills District,
Meghalaya.

.....Petitioner

-Versus-

1. The State of Meghalaya,
Through the Chief Secretary to the Government of Meghalaya,
Shillong.
2. The Secretary to the Government of Meghalaya,
Education Department, Shillong.
3. The Secretary to the Government of Meghalaya,
Finance Department, Meghalaya, Shillong.
4. The Director, School Education and Literacy,
Meghalaya, Shillong.
5. The Deputy Inspector of Schools,
West Khasi Hills, Nongstoin,
Meghalaya.
6. The Managing Committee,
St. Mary's RCLP School, Nonglwai
Represented by its Secretary Fr. Kenny Pakma, SCP,



Parish Priest, Catholic Church, Rangblang,
P.O-Nongstoin, West Khasi Hills District,
Meghalaya.

7. Shri. Francis Dkhar,
S/o Smti. Imon Dkhar,
R/o Nonglwai, P.O. Nongstoin,
West Khasi Hills District,
Meghalaya.

.....Respondents

WP(C) No. 456 of 2020

Smti. Aquila Tympuin
D/o (L) Krekori Kharsyiem,
Resident of Village Nonglwai-II
B.P.O Mawthunkper,
P.O Nongstoin, West Khasi Hills District,
Meghalaya

.....Petitioner

-Versus-

1. The State of Meghalaya,
Through the Chief Secretary to the Government of Meghalaya,
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West Khasi Hills, Nongstoin,
Meghalaya.
6. The Managing Committee,
St. Mary's RCLP School, Nonglwai
Represented by its Secretary Fr. Kenny Pakma, SCP,
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7. Shri. Francis Dkhar,
S/o Smti. Imon Dkhar,
R/o Nonglwai, P.O. Nongstoin,
West Khasi Hills District,
Meghalaya.

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. Philemon Nongbri, Adv.
Mr. W.G.R. Mihsill, Adv.
Mr. R. Pahsyntiew, Adv.
For the Respondent(s) : Mr. N.D. Chullai, AAG with
Ms. Z.E. Nongkynrih, GA

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

COMMON JUDGMENT

1. The petitioners herein are said to be teachers of St. Mary's RCLP School, Nonglwai, West Khasi Hills District who were allegedly suspended as teachers of the said school vide Suspension Order dated 13.07.2013 duly approved by the Sub-Divisional School Education Officer, Nongstoin vide Order dated 10.01.2013 (sic 2014), which was issued separately to them, but contents of which are identical.

2. Being aggrieved by the said order of suspension and also a related



Enquiry Report dated 19.09.2014 pertaining to the services of the petitioners/teachers of the said St Mary's RCLP School, more particularly that the suspension proceedings have not been concluded till date after more than 6 years or so, and further that the statutory subsistence allowance due to the petitioners have not been paid to them, this Court was accordingly approached by filing of the writ petition, separately, numbered as WP(C) No. 455 and 456 of 2020 respectively.

3. The prayer made in these petitions is for recall of the said suspension order dated 13.07.2013 and the related approval order dated 10.01.2014 as well as recall of the said Enquiry Report dated 19.09.2014 and payment of the subsistence allowance and salary for the year 2008/2009.

4. Since the contents and issues raised in these two petitions are almost identical and similar, this Court deems it proper for the same to be taken up together and a common judgment to be passed for convenience's sake.

5. Heard Mr. Philemon Nongbri, learned counsel for the petitioners who has submitted that the petitioners have been working as Asst. Teachers in the said school, Smti. Aquila Tympuin (Petitioner No. 2) since the year 1989, however, she was officially appointed only in the year 1995 vide order dated 14.02.1995 passed by the Deputy Inspector of Schools, West Khasi Hills District, Nongstoin and Smti. Felicita Rmen (Petitioner No. 1) was also appointed on the strength of the order dated 19.09.2003, also issued by the Deputy Inspector of Schools, Nongstoin.



6. The learned counsel has also submitted that the petitioner No. 2 was also deputed to attend a two-year Junior Teachers' Training Course at Lady Reid Basic Training Centre, Malki, Shillong sponsored by the school, that is, St. Mary's RCLP School, Nonglwai and was released from the said training vide Release Order dated 31.12.2008. She then reported for duty at the school on 02.01.2009, such joining report being communicated to the Deputy Inspector of Schools, Nongstoin vide letter dated 27.01.2009.

7. However, both the petitioners have not been paid their salaries for which vide letter dated 13.05.2009, they have jointly requested the Deputy Inspector of Schools, Nongstoin, for release of the same. Instead, vide communications dated 18.08.2009 and 16.10.2009, the petitioners were issued warning memos respectively, to the extent that it is said that they have remained absent from duty for a long time and therefore they are requested to resume duties, submits the learned counsel.

8. The petitioners being aggrieved by the non-payment of their respective salary have then approached the Court (the then Gauhati High Court, Shillong Bench) with individual writ petitions being WP(C) Nos. 184 and 185 of 2012 seeking direction for release of their salaries.

9. During the pendency of hearing of the said writ petitions, the School Managing Committee in the meantime had passed a resolution dated 13.07.2013 whereby it was resolved to place the petitioners under suspension pending disciplinary proceedings. This got the approval of the Sub-Divisional Education Officer, Nongstoin vide his order dated 10.01.2013 (sic 2014).



10. This Court vide order dated 03.03.2014 by a common judgment has disposed of the writ petitions (supra) filed by the petitioners and has inter alia, directed the Director of School Education and Literacy, Meghalaya, Shillong to conduct an enquiry as to whether the petitioners had really rendered their services as teachers in the said school during the period for which they had alleged that they had not been paid their salaries. Accordingly, the enquiry was conducted and the Enquiry Report was submitted on 19.09.2014.

11. The learned counsel went on to submit that the contents of the Enquiry Report at para 3 of the same would revealed that there was a dispute as regard the ownership and management of the school, that is, St Mary's RCLP School between the respondent No. 6 and the respondent No. 7 herein and the same was settled in favour of the Roman Catholic Church by the Commissioner and Secretary to the Government of Meghalaya vide relevant order and communication dated 30.04.2013.

12. Though the conclusion of the said Enquiry Report would show that the petitioners are not entitled to their salaries as they have not rendered their services at the school which was duly recognized by the Government, the learned counsel has conceded that there will be no claim to salary for the period prior to 30.04.2013. However, since the order of suspension was issued on 13.07.2013, no formal disciplinary proceeding have been initiated by the authorities and also no subsistence allowance was paid to the petitioners which is a clear violation of the principles of natural justice. This has been further made clear when, on an RTI enquiry, the authorities have admitted that the petitioners have been suspended by



the Managing Committee of the School and the same approved by the Sub-Divisional School Education Officer, Nongstoin, but they have not been terminated from service. It was also admitted that no subsistence allowance was paid to them.

13. Finally, the petitioners have filed respective representation dated 25.02.2020 to the Director of School Education & Literacy with similar prayer for revocation of the suspension order and also for release of the subsistence allowance to which the I/c Sub-Divisional School Education Officer, Nongstoin has replied vide his letter dated 09.11.2020 wherein he has enclosed letter No.DSEL/EL/GB/Misc/8/2019/112 dated the 6th October, 2020 under the subject “Representation for revocation of suspension order and release of subsistence allowances” pertaining to the petitioners herein, but such communication having no substance at all, have compelled the petitioners to file this writ petition before this Court, submits the learned counsel.

14. To strengthen his contention that the case of the petitioners have been dealt with by the authorities in an illegal and arbitrary manner, trampling over their fundamental and legal rights, the learned counsel has referred to the provisions found in the Service Rule for Employees of Government Aided Schools where Rule 5 provides for penalties to be imposed on an employee of an aided school by the Managing Committee, which penalties includes dismissal or removal, reduction in rank, recovery from pay etc., provided that none of these penalties shall be imposed on an employee until he has been given a reasonable opportunity of showing cause against such proposed action to be taken against him, which,



according to the learned counsel is amply evident from the records pertaining to the case of the petitioners herein, who have neither been informed or served with relevant documents etc. of any disciplinary proceedings initiated against them on their being suspended as teachers of the said St. Mary's RCLP School.

15. As regard the non-payment of subsistence allowance, the learned counsel has again referred to Rule 9 of the abovementioned Rule to say that this Rule provides for payment of subsistence allowance by the Managing Committee which shall be not exceeding one-fourth of their individual pay, but this too has not been given to them since the time they were suspended.

16. In support of the case of the petitioners, the learned counsel has cited the case of *Ajay Kumar Choudhary v. Union of India Through Its Secretary and Anr.*, (2015) 7 SCC 291 relevant para being 19, 20 and 21 and also the case of *Chhabi Chakraborty v. State of West Bengal & Ors.* reported in 2006 (1) L.L.N. 532, para 12 to 19.

17. For such reasons mentioned hereinabove, the petitioners have now approached this Court with the two-fold prayer for revocation of their suspension and for payment of the subsistence allowance, though it is reiterated that no claim as far as arrear salary is concerned is made herein.

18. Mr. N.D. Chullai, learned AAG appearing for the State respondent Nos. 1-5 has submitted that the petitioners have no cause of action to approach this Court with the prayer made in the petition, inasmuch as they have come against the order dated 13.07.2013, duly



approved by the competent authority on 10.01.2014, placing them under suspension, for which prayer is made for payment of subsistence allowance and further that the Enquiry Report dated 19.09.2014 be recalled. However, the fact remains that they have approached this Court belatedly and thus the petition suffers from the vice of delay and laches.

19. The learned AAG has also stressed on the fact that the petitioners had earlier approached this Court by way of writ petition Nos. 184 and 185 of 2012 with a prayer for release of their salary. However, this Court vide judgment and order dated 03.03.2014 had disposed of the petitions with a direction for institution of an enquiry, primarily to find out as to whether the petitioners had really rendered their services as teachers in the said school for the said period they have not been paid their salaries. In the meantime, before the said judgment and order dated 03.03.2014 was passed, the petitioners were placed under suspension by the respondent No. 6/Managing Committee on 13.07.2013 which action was approved by the competent authority vide order dated 10.01.2013 (sic 2014). The petitioners ought to have brought the fact of such suspension to the notice of this Court in the ongoing proceeding relating to their service conditions, but having failed to do so, they could not have approached this Court by way of these petitions in these present proceedings at a belated point of time.

20. The learned AAG has again referred to the said Enquiry Report dated 19.09.2014 and has submitted that on being so directed by this Court, an enquiry was conducted and a spot Enquiry Report was filed by the Enquiry Officer who is the Deputy Director, School Education and



Literacy. In the report, what is reflected is that there is found two schools with the same name, that is, St. Mary's RCLP School functioning from the same place, that is, Nonglwai Village, one run by the Roman Catholic Church (hereinafter known as School 'A') and the other run by Shri. Francis Dkhar/Respondent No. 7 herein (hereinafter known as School 'B'). Upon checking of the teachers' attendance register of School 'A', it is found that the names of the two petitioners are on the rolls but they have been marked absent w.e.f. 2008/2009 till date. The Enquiry Officer then visited School 'B' which is located in a building, 100 m east from School 'A' and there he met both the petitioners, including the respondent No. 7. From this, the Enquiry Officer came to know that the petitioners are serving at School 'B' under the respondent No. 7 as Secretary of the Managing Committee.

21. It is the further submission of the learned AAG that in view of the said Enquiry Report what could be ascertained is that the petitioners have willfully and voluntarily abandoned their service by remaining absent from duty for a long period of time since 2008/2009. As such, the petitioners/employees should be treated as such employees/teachers who have resigned from service and the bond of service has come to an end automatically without requiring any further orders by the competent authority. No enquiry or disciplinary proceeding is also necessary under such circumstances. In fact, the issuance of the said impugned order of suspension is not warranted and the Managing Committee ought not to have issued the same. Similarly, the competent authority in the Education Department should not have approved such action, submits the learned AAG.



22. In counter to the reference made by the learned counsel for the petitioners as regard the relevant rules governing the service conditions of the employees of a Government Aided School, the learned AAG has contended that those provisions cited are not applicable to the case of the petitioners herein since admittedly, they are not employees or teachers of a recognized school governed by the said rules.

23. In support of his case, the learned AAG has cited the following authorities:

- i. C. Jacob v. Director of Geology and Mining & Anr., (2008) 10 SCC 115, para 12 & 13; and
- ii. Vijay S. Sathaye v. Indian Airlines Limited & Ors., (2013) 10 SCC 253, para 11, 12, 13, 14;

24. Mr. H.L. Shangrieso, learned Sr. counsel for the respondent No. 6/Managing Committee has, at the outset submitted that this respondent will subscribe to the submission and contentions raised by the learned AAG and will also advance additional argument in support of its stand.

25. It is the submission of the learned Sr. counsel that the first objection to the institution of these writ petitions is that the same have been filed belatedly, inasmuch as the related Enquiry Report was presented on 19.09.2014 while these petitions have been filed only in the year 2021, thereby leaving unanswered questions of why there has occurred 7 years' delay in filing these petitions.

26. The next submission of the learned Sr. counsel is that the



prayer of the petitioners for recall of the said Enquiry Report (supra) can be considered by this Court only if the petitioners can satisfy this Court that they have been continuously teaching in the school run by the respondent No. 6 without any break and therefore, if the findings of the Enquiry Officer is set aside, the respondent No. 6 may be allowed to complete the disciplinary proceedings perhaps within three months. However, it is the submission of the learned Sr. counsel that the petitioners have not been able to make out a case to say that the findings of the Enquiry Officer are factually incorrect.

27. On consideration of the submission and contention of the learned counsel for the parties herein, mention to be made that the respondent No. 7 has failed to make his appearance or to file any counter in both the cases, the matter shall therefore proceed ex parte against such respondent.

28. The facts and circumstances of the case of the petitioners have been adequately brought out in course of the hearing of these petitions, as such repetition of the same will not be made, unless necessary.

29. The crux of the dispute between the parties as could be understood from a reading of the contents of the petitions and the counter filed by the respondents is whether the petitioners can be counted as teachers of the said St. Mary's RCLP School recognized by the Education Department, Government of Meghalaya as a Government Aided School and whether they have voluntarily and willfully remained absent or have abandoned their services as teachers of the said school. If so, whether the disciplinary proceedings against them in the form of suspension has been



carried out in accordance with the provisions of the relevant rules and finally, whether they are entitled to the reliefs sought for in the respective petition.

30. It would therefore be proper to first ascertain the legal position of the petitioners as far as their services as teachers of the said St. Mary's RCLP School is concerned.

31. The petitioner No. 1 has stated that she has joined the school as Asst. Teacher on temporary basis being appointed in the year 2003 for which the approval order of appointment was issued by the Deputy Inspector of School, Nongstoin on 19.09.2003.

32. As for the petitioner No. 2, her appointment as Asst. Teacher of the said school was also approved by the Deputy Inspector of Schools, Nongstoin vide order dated 14.02.1995 and she has joined the school by filing her joining report on 15.02.1995.

33. Therefore, their respective appointments as teachers of the said school having received the official stamp of approval by the competent authority in the Education Department, it can be construed that they are teachers of the officially recognized school.

34. It is also relevant to point out that at some point of time there was a dispute as to the management of the said school, prompting the respondent No. 7 who was the then Secretary of the Managing Committee to approach this Court for necessary direction and that this Court vide order dated 04.09.1996 in Civil Rule No. 68(SH)/95 has set aside the order removing the said respondent as Secretary of the Managing Committee.



35. It is also borne out from the records and admitted by the parties that in the year 2004 the respondent No. 7 had constructed a separate building near the existing school and the school has been functioning from the new building since then. This has been disputed by the respondent No. 6 who has maintained that the school run by the respondent No. 7 is an unauthorized institution whereas the official school though bearing the same name is the one managed by the respondent No. 6.

36. Apparently, the petitioners have continued as teachers of the said school but are found to be teaching in the school set up by the respondent No. 7, the explanation given is that since the day they were appointed in the school, the Secretary of the Managing Committee who had recommended their appointment at the relevant point of time was the respondent No. 7.

37. Admittedly, the petitioners have not received their salaries for a number of months prompting them to file a representation before the Deputy Inspector of Schools with a prayer for release of their salaries. In the midst of this, the petitioners have received several warning memos issued by the respondent No. 6/Secretary, Managing Committee of the School calling upon them to explain as to why they have been absent from teaching in the school for more than one year. The first of these warning memos was issued on 18.08.2009 and the 7th warning memo was issued on 07.02.2011. Interestingly, from the records it is noticed that the warning memo Nos. 5 and No. 6 dated 05.10.2010 and 08.11.2010 respectively have been issued under the name and signature of Fr. Kenny Pakma, Secretary, Managing Committee, St Mary's RCLP School,



Nonglwai. This would indicate that the school run by the Roman Catholic Church, said to be the school recognized by the Education Department has considered the petitioners to be teachers of the school as opposed to the contention that they are teachers in the school said to be run by the respondent No. 7.

38. It is pertinent to note herein that the petitioners have chosen not to respond to the said warning memos and has instead approach this Court by way of the writ petition Nos. 184 and 185 of 2012 with a prayer inter alia, for direction to release their salaries. The petitions were disposed of vide the common judgment and order dated 03.03.2014 by which this Court has directed an enquiry to be conducted as to why they have not been paid their salaries.

39. It is also a fact that during the pendency of the hearing of the said writ petitions filed by the petitioners, the respondent No. 6 vide Resolution dated 13.07.2013 had resolved to initiate disciplinary proceedings against the petitioners and pending such proceedings, they were respectively placed under suspension. The said resolution was also approved by the relevant authority, that is, the Sub-Divisional School Education Officer, Nongstoin in his order dated 10.01.2013 (sic 2014). Here too, the petitioners could have responded to the said order of suspension by assailing the same in the ongoing proceedings before this Court, but as has been contended by the learned AAG, they failed to take any steps in this regard for which an adverse inference may be drawn against their conduct.

40. That the petitioners have declined to respond to the said warning memos and the subsequent order of suspension can be construed to assume



that the petitioners did not consider themselves as teachers of the said school run by the Roman Catholic Church but have aligned themselves with the school run by the respondent No. 7. This is apparent when the Enquiry Report dated 19.09.2014 was filed by the Enquiry Officer, Shri. P. Ryngksai, Deputy Director, School Education and Literacy, Meghalaya Shillong wherein it was confirmed that there are two schools by the same name, that is, St. Mary's RCLP School, Nonglwai, one run by the Roman Catholic Church, called School 'A' and the other by Shri. Francis Dkhar/respondent No. 7/School 'B'. On scrutiny of the attendance register of School 'A', it is found that the names of the two petitioners have also been listed as Asst. Teachers with the remark 'absent'. However, the Enquiry Officer on his visit to School 'B' met both the petitioners including the respondent No. 7 and on scrutiny of the said attendance register, the names of the petitioners are found to be recorded as teachers serving in the said School 'B'.

41. The contention of the learned counsel for the petitioners that the dispute between the two factions was finally decided by the Commissioner and Secretary to the Government of Meghalaya vide his order dated 30.04.2013, recognizing the school run by the Roman Catholic Church as the official school aided by the Government and therefore, the petitioners are all along under the impression that they are serving in the recognized school cannot be contemplated since the cause of action raised in these petitions inter alia, is for recall of the said suspension order and payment of subsistence allowance which emanated from the relevant order dated 13.07.2013 and 10.01.2014 which dates pertain to the period beyond 30.04.2013.



42. The fact that since the said suspension order was issued in the year 2013/14, it was incumbent upon the authorities concerned to proceed with the disciplinary proceedings against the petitioners by following due process, failing to proceed further, for example article of charge not yet framed, legally, the impugned suspension has lost its relevance. In the case of *Shri. Damilton Hoojon v. State of Meghalaya & Ors.* reported in 2015 SCC OnLine Megh 168, this Court taking into consideration the fact that the petitioner therein has been placed under suspension continuously for more than 10 years without the article of charge being framed, on the ground that there is a criminal case pending against the said petitioner, has set aside the suspension order and directed reinstatement of the said petitioner in service. Similarly, the Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary*(supra) at para 21 has direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee. The case of *Chhabi Chakraborty* (supra) also cited by the petitioners speaks of a similar situation where an order of suspension without limitation and without any departmental proceeding prima facie, tantamount to imposition of penalty which cannot be done without following the principles of fair play and natural justice.

43. At this juncture, it may be pointed out that it is a fact that the petitioners have initially been appointed and duly approved as Asst. Teachers by the competent authority in the Education Department, Government of Meghalaya against sanctioned posts. Appropriate budgetary allocation as far as their salary is concerned has also been duly indicated in the annual statement showing the detailed calculation of pay



and allowances in respect of Non-Govt. Schools Teachers, wherein for the year 2011-2012, the name of the petitioner No. 1 appears at Sl. No. 39 under the name of the school being St Mary's RCLP School, Nonglwai and the name of the petitioner No. 2 appears at Sl. No. 17 of the said statement. Therefore, officially, the names of the petitioners appear in the roll of the St. Mary's RCLP School, Nonglwai run by the Roman Catholic Church and as such, there is no infirmity in the issuance of the impugned suspension order.

44. Having determined that the petitioners are officially teachers of the school run by the Roman Catholic Church, the question now arise as to whether they have voluntarily and willfully abandoned their services at the said school having been absent for many years continuously. Now, the contention of the petitioners is that they have remained teaching in the school managed by the respondent No. 7, presumably on the understanding that since the recommendation for appointment as teachers of the said school was made by the said respondent in his capacity as Secretary of the School Managing Committee at the relevant point of time, therefore, the school they are teaching in is the officially recognized one. Legally, this contention can be accepted as the official status of both or either of the schools have not been resolved until the year 2013, when apparently, information revealed in the Enquiry Report dated 19.09.2014 (supra) has confirmed that the official status of the school managed by the Roman Catholic Church was on the basis of the order No. EDN/CC/7/2013/354 dated 30.04.2013 issued by the Commissioner and Secretary to the Government of Meghalaya, Education Department.



45. This information was not officially made known to the petitioners except after 19.09.2014 when the Enquiry Report was brought out, however, by such time, the petitioners have already been placed under suspension on 13.07.2013. Therefore, even if it is assumed that having realized that they have all along been teaching in the wrong school, no opportunity was ever given to the petitioners to make necessary representation to the authorities concerned to explain their side of the story. The findings as were indicated in the Enquiry Report (supra) that they have been found teaching at School 'B' and such action having been considered by the authorities as abandonment of service would have no negative impact on the service condition of the petitioners as this Court would accept the explanation of the petitioners that they are not aware of the fact that all along they have been teaching at the school not officially recognized. Be that as it may, such findings in the Enquiry Report cannot be accepted as final as the same has not been approved by the competent authority, or if it has been approved, no record has been produced before this Court.

46. Another aspect of the matter to be considered is the conduct of the respondent No. 6 as well as the authorities in the Education Department, which have issued the impugned suspension order under the hand and seal of the respondent No. 6/Managing Committee which imply that they have considered the petitioners to be the teachers under their management, which fact, as has been indicated hereinabove is borne out by the relevant records, including the said budgetary allotment. Nothing has come out to say that the said suspension orders have been issued inadvertently, the same therefore bears the official stamp as far as the



services of the petitioners are concerned.

47. Under such circumstances, the action or rather inaction of the respondent authorities in not following through with the disciplinary proceedings after the said suspension orders have been passed inasmuch as the article or memorandum of charges etc. has not been served upon the petitioners initially has rendered the said proceedings as infructuous, rules not having been followed.

48. On the contention of the respondents that the petitions have been filed belatedly, what is noticed is that the petitioners having waited for a number of years for the concerned authorities to commence with the disciplinary proceedings and not having received their subsistence allowances, they have petitioned the Director of School Education & Literacy on 25.02.2020 with a prayer for release of subsistence allowance and for revocation of the suspension. In response to the said representations, the I/c Sub-Divisional School Education Officer, Nongstoin has replied vide communication dated 09.11.2020 which, upon perusal of the same did not disclose any reasons cited as to whether the prayer made has been allowed or not. Under such circumstances, the petitioners having approached this Court by these writ petitions, it cannot be said that the same have been preferred after a long gap of time. The contention of the respondents on the issue of delay and laches is not accepted by this Court.

49. The learned AAG has strongly emphasized that the petitioners have voluntarily and willingly absented themselves from school duty for a very long time and as such their action can only be termed as



abandonment of service for which it was not even necessary for the competent authority to initiate disciplinary proceedings. Reliance has been placed in the authority of the case of C. Jacob (supra) and V.J.S. Sathaye (supra) wherein at para 12 and 13 in the case of C. Jacob it was held that when a government servant abandons service to take up alternative employment or when an employee unauthorizedly absents himself and suddenly appears after 20 years and demands that he should be taken back and approaches the court, such employee cannot be treated as having continued in service. At para 12, 13 and 14 of the V.J.S. Sathaye case, the Hon'ble Supreme Court has held that “...*Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntary abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any order to be passed by the employer.*”.

50. Under the peculiar facts and circumstances of the case of the petitioners, as has been pointed out above, their absence from service was on a misplaced notion, however, technically, they are still officially engaged in the school run by the Roman Catholic Church for which the school management taking such facts into consideration has initiated disciplinary action including placing them under suspension. Therefore, it cannot be said that they have voluntarily or willfully abandoned their services. The case cited in this regard are found not to be applicable.

51. Consequently, on appreciation of the totality of the case of the petitioners, this Court is convinced that the authorities concerned have failed to proceed against the petitioners in accordance with relevant rules



and procedures as far as the disciplinary action taken against them is concerned.

52. Therefore, the petitioners have made out a case for this Court to issue necessary direction to the authorities concerned. In the event, it is hereby directed that the said suspension order has become infructuous, the same is set aside and quashed. However, the authorities concerned are also directed to pay the arrears subsistence allowance to the petitioners from the period they have been placed under suspension till date. Thereafter, it would be open to the authorities to take up disciplinary proceedings against the petitioners, if so warranted or so desired.

53. The payment of the said subsistence allowance in terms of Rule 9 of the Service Rule for Employees of Government Aided Schools being one-fourth of the pay to be fixed by the Managing Committee is to be disbursed to the petitioners respectively within 2(two) months from the date of this order.

54. With the above, these petitions are hereby disposed of. No costs.

Judge