

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.4951 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.M.P.Tripathi, advocate for the Petitioner.
Smt.S.D.Shelke, Asstt.Govt. Pleader for the State.

**CORAM : S.V.GANGAPURWALA &
V.K.JADHAV, JJ.**

Date : 10.07.2015.

PER COURT :

1. Heard.
2. The petitioner is challenging the disciplinary proceedings initiated against the petitioner, show cause notice so also seeks direction to initiate action against Respondent Nos.4 and 5, pursuant to his representation dated 10.4.2014.
3. It is submitted that the petitioner has been subsequently terminated and the petitioner has filed appeal before the College Tribunal, the question of the legality of the termination can be considered in the said Appeal.
4. As far as direction to initiate inquiry is concerned, it is found that the Vice Chancellor has constituted Inquiry Committee in which the petitioner's representation was also considered. In

light of that, no further directions are required to be issued. In case depending upon Inquiry Committee constituted by the Vice Chancellor, the petitioner may take further course of action.

5. As far as subsistence allowance is concerned, it is submitted that only 50% amount has been paid but as per Section 197 of the Maharashtra Universities Act, 1994 after the lapse of three (3) months, the petitioner is entitled for full pay as subsistence allowance.

6. Mr.Kute, learned counsel submits that the delay in inquiry can not be attributed to the Management. It is the petitioner who is responsible for the delay inasmuch as on 4.7.2014, the petitioner was absent because of which next date was required to be given. Thereafter, he filed application for supply of documents on 2.7.2015. Inquiry report was forwarded by the Inquiry Officer on 6.9.2015. Thereafter, permission was sought from the University for holding inquiry after the preliminary inquiry which was received on 21.10.2014. The Management was not at all at fault. In fact, delay can be attributed to the petitioner. Even when fullfledged inquiry had commenced, the petitioner raised objection to the continuation of the Inquiry Officer. Thereafter, Inquiry Officer was required to be changed. The delay is attributable to the petitioner. Section 197 of the Maharashtra University Act, reads as under :

“S.197. (1) The teacher under suspension shall be paid the subsistence allowance at the rate of half the pay for a period of the first three months, and at the rate of full pay thereafter, if the period of suspension is prolonged, for reasons not directly attributable to the teacher and the allowance admissible thereon, from time to time.”

Perusing the said provision, it is manifest that the teacher under suspension is required to be paid subsistence allowance at the rate of half the pay for the period of three (3) months and at the rate of full pay thereafter, if the period of suspension is prolonged for reasons not directly attributable to the teacher.

6. The factual matrix placed before us does not lead us to conclusion that the delay in prolonging the suspension period can be attributable to the petitioner. The petitioner was suspended before commencement of the preliminary inquiry. Preliminary Inquiry itself took four (4) months to complete and it is only in October 2014, the Respondent Management got permission from the University to conduct fullfledged inquiry. The objection of the petitioner to the Inquiry Officer was sustained inasmuch as the Inquiry Officer was required to be changed.

7. Considering the aforesaid conspectus of the matter, we feel that the petitioner would be entitled for full pay after lapse of first three (3) months of the suspension period till the period the

petitioner was under suspension. The Respondents shall pay the same expeditiously.

8. The Writ Petition is disposed of. No costs.

(V.K.JADHAV, J .)

(S . V . GANGAPURWALA, J .)

Dt . 10 . 07 . 2015 .
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