

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9384 OF 2013

SURYAKANT VASANTRAO CHATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Munde Suresh W.
AGP for Respondent 1 : Smt. Shelke S.D.
Advocate for Respondent 2 : Shri Bondar U.B.
Advocate for Respondents 3 & 5 : Shri Soman D.V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 05, 2015
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PER COURT :-

1. The petitioner has assailed the order of suspension, dated 1.4.2013, issued by the respondent No.5, pending disciplinary proceeding.
2. An first information report has been registered against the petitioner on 5.3.2013, initially under Section 307 of the Indian Penal Code. Subsequently, owing to the death of the concerned person, offence under Section 302 of the Indian Penal Code has been registered against the petitioner. It is stated that the petitioner is in custody and is yet to be released on bail.
3. Shri Mundhe submits that the respondents are initiating a disciplinary proceedings against the petitioner despite the fact that he cannot be said to be unauthorizedly absent as he is behind bars and cannot report for duties.
4. The petitioner has put forth prayers as against the suspension as well as the pending enquiry.
5. Shri Soman, learned Advocate appearing on behalf of respondent Nos.3 and 5 submits that to the extent of the records of the School, it is noted that the petitioner is remaining absent and has not submitted any

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leave application. It is in this backdrop that the disciplinary proceedings have commenced. Several other charges have also been levelled upon the petitioner which would be subject matter of the departmental enquiry in accordance with the the Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977 and the the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

6. Taking into account the fact situation as above, I am not interfering with the order of suspension, issued by the employer. However, ends of justice would be met by directing the respondent No.3 employer not to proceed with the departmental enquiry, since the petitioner is behind bars and would not be in a position to participate in the enquiry, till he is set at liberty.

7. With the above observations, this petition is disposed off.

(RAVINDRA V. GHUGE, J.)

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