

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.788 OF 2016

Dilip S/o Vitthalrao Bondre

..vs..

**The Project Officer, Integrated Tribal Development Project, Pandharkawada, District
Yavatmal and ors**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri Bharat Kulkarni, counsel for the petitioner.
Shri H.S. Chitaley, Adv. H/f Shri Akshay Naik, counsel for R-2 & 3.
Mrs. A.R. Kulkarni, AGP for R-1.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA K. JAIN, JJ.**

DATED : JULY 29, 2016.

Heard.

An employee of Aashram School is before
this Court complaining of an unduly long interim
suspension as also validity of conditions attached to it.

Learned counsel Shri Bharat Kulkarni for
the petitioner submits that the petitioner, at the time of
his suspension, was working at Babhulgaon, District
Yavatmal and while suspending, his headquarters has
been changed to Yavatmal. His other contention is, the
petitioner could not have been called upon to mark his
attendance daily during the period of suspension. He
argues that change of headquarters and a direction to
mark attendance at Yavatmal at 07:00 a.m. in the
morning, is issued only to harass the petitioner. He has

not been paid any subsistence allowance.

Advocate Shri H.S. Chataley h/f learned counsel Shri Akshay Naik for respondent Nos.2 and 3 is relying upon reply-affidavit. He submits that the petitioner is a “Cook” in an Aashram School where the girls students reside. The offence has been registered against him on 4.4.2015 under Sections 452 and 354 of the Indian Penal Code. The staff of Aashram School has, on 8.4.2015, complained in this respect to the Management. He has also invited our attention to the earlier complaints. He, therefore, submits that in this situation, considering the nature of allegations, the placement of the petitioner, immediate action was warranted and, therefore, interim suspension came to be ordered after taking necessary decision. The conditions were, therefore, added in the interest of staff and students. Those terms and conditions were never assailed and the petitioner has participated in the departmental enquiry. As petitioner did not obey the conditions, he was not paid the subsistence allowance. The enquiry is over and the papers have been sent to the Competent Authority seeking its approval.

Learned counsel Shri Bharat Kulkarni for the petitioner disputes that. He submits that even interim suspension could not have been ordered without prior approval of the Competent Authority. He

wants to demonstrate before this Court that the scheme of Aashram School does not envisage such suspension.

As we do find the departmental enquiry is already over and no objection was raised by the petitioner to change of his headquarters from Babhulgaon to Yavatmal or to any other condition in suspension order, till completion of that enquiry, it will not be proper at this stage to intervene in the matter. Our findings either way, may eclipse the further process.

We, therefore, keep all rival contentions open.

The Management has forwarded necessary proposal after completion of the departmental enquiry to respondent No.1. We direct respondent No.1 to take appropriate decision on it in accordance with law, within next one month. If necessary, an opportunity of hearing shall be provided by him to the parties.

We also keep it open for respondent No.1 to examine grievance of the petitioner regarding non-payment of subsistence allowance, during this period.

With these directions and keeping all rival contentions open, we dispose of the writ petition. No costs.

JUDGE

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on : -02/08/2016

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