

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1048/2016

(SURESH ANANDRAO CHAVHAN **VERSUS** LATE SANJAY RATHOD SHIKSHAN SANSTHA,
YAVATMAL & OTHERS)

WITH

WRIT PETITION NO. 1057/2016

(MOHAN GOVIND PAWAR **VERSUS** LATE SANJAY RATHOD SHIKSHAN SANSTHA, YAVATMAL &
OTHERS)

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

Court's or Judge's orders

Shri P.S. Patil, counsel for the petitioners.
Shri R. Dhore, counsel for the R-1 & 2 in both the petitions.
Shri J.N. Ghurde, A.G.P. in WP No.1048/16.
Ms Ritu Kalia, A.G.P. in WP No.1057/16.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JUNE 15, 2016.

Since the issues involved in these petitions are identical, they are heard together and are decided by this common order.

By these writ petitions, the petitioners, who were working as teachers in the respondent no.2-Manoharrao Naik Deaf and Dumb Residential School, have challenged the orders of their suspension dated 16.07.2015 and have sought a direction to the respondent no.1-Management to reinstate the petitioners on the post of Special Teachers and deposit the subsistence allowance that is payable to them, in this Court.

According to the petitioners, who were working as confirmed special teachers in the respondent no.2-School, the respondent no.1-Management by the orders dated 16.07.2015 suspended them on the ground that a Departmental Enquiry was contemplated. Since an enquiry was not conducted despite the suspension for long, the petitioners filed the writ petitions on

02.02.2016 seeking the aforesaid relief. It is the case of the petitioners that after the writ petitions were filed, the respondent no.1-Management conducted the enquiry and terminated the services of the petitioners by the orders dated 10.05.2016. The petitioners have independently challenged the orders of their termination. The petitioners have only sought a direction against the respondents to pay the arrears of subsistence allowance to them.

Shri Ghurde, the learned Assistant Government Pleader appearing on behalf of the respondent no.3-District Social Welfare Officer, submitted that the respondent no.2-School was not performing well and due to several illegalities-irregularities, the Department of Social Welfare had served a notice asking the respondent no.1-Management to show cause as to why the recognition of the respondent no.2-School should not be cancelled. It is stated that in this background, at this stage, this Court may not direct the respondent no.3 to release the amount to the petitioners towards the subsistence allowance. It is stated that the question of releasing the salary grants to the respondent no.2-School and/or cancellation of the recognition is under consideration of the Commissioner of Disability Affairs, Pune.

Shri Dhore, the learned counsel for the respondent nos.1 and 2, opposes the prayer made in the petitions. It is stated that the respondent no.1-Management is not receiving the salary grants from the respondent no.3 from July-2015 and it would not be possible for the respondent no.1-Management to pay the arrears of subsistence allowance to the petitioners. It is stated that after conducting the enquiry, both the petitioners have been terminated and in this background, liability may not be fastened on the respondent no.1-Management to pay the subsistence allowance.

On hearing the learned counsel for the parties, it appears that during the pendency of the writ petitions, the enquiry was conducted against the petitioners and the services of the petitioners are terminated. In this background, the challenge made by the petitioners to the suspension orders has been rendered infructuous.

As regards to the other prayer made by the petitioners for a direction to the respondents to pay the arrears of the subsistence allowance to the petitioners, it appears that a direction is required to be issued against the respondent no.1-Management to pay the arrears of the subsistence allowance to the petitioners. Admittedly, the subsistence allowance is not paid to the petitioners. It is the case of the respondent no.3 that the petitioners were suspended without seeking the prior permission of the respondent no.3. Also, there is some dispute between the respondent no.1-Management and the respondent no.3 in regard to the payment of salary grants to the respondent no.1-Management. The primary responsibility would be on the respondent no.1-Management to pay the subsistence allowance to the petitioners as the respondent no.1-Management had suspended the petitioners, pending enquiry. In the circumstances of the case, by leaving the question in regard to the liability of the respondent no.3 to reimburse the amount paid by the respondent no.1-Management to the petitioners towards subsistence allowance open, it would be necessary to direct the respondent no.1-Management to pay the arrears of subsistence allowance to the petitioners, within a time frame.

Hence, for the reasons aforesaid, the writ petitions are partly allowed. The respondent nos.1 and 2 are directed to pay the arrears of subsistence allowance to the petitioners within a period of two months.

Order accordingly. No costs.

JUDGE

JUDGE

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