

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

WRIT PETITION NO. 1049/2016

(PRAKASH RAGHUNATH CHAVHAN & OTHERS **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.
Ms N.P. Mehta, A.G.P. for the R-3.

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

DATE : JUNE 15, 2016.

By this writ petition, the petitioners challenge the order of suspension dated 02.01.2016 as being illegal. The petitioners seek a direction against the respondents to release the arrears of salary from July-2015 till 02.01.2016 and the arrears of subsistence allowance from 02.01.2016 to 03.05.2016, the date on which the services of the petitioners were terminated.

The petitioners were the teaching and non-teaching employees in the respondent no.2-Manoharrao Naik Deaf and Dumb Residential School. Due to some irregularities in the respondent no.2-School, it appears that the respondent no.3-District Social Welfare Officer stopped releasing the salary grants to the respondent no.1-Management since July-2015. The respondent no.1-Management, therefore, did not release the salary of the petitioners for the period from July-2015 to 02.01.2016. During the pendency of the writ petition, the respondent no.1-Management conducted the enquiry against the petitioners and terminated their services by the order dated 03.05.2016. The challenge made by the petitioners to the order of their suspension is, therefore, rendered infructuous due to the subsequent development. Now, the petitioners have only sought a direction to the respondents to release the arrears of subsistence allowance in favour of the petitioners.

Ms Mehta, 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 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 its recognition is under consideration of the Commissioner of Disability Affairs, Pune.

Shri Dhore, the learned counsel for the respondent nos.1 and 2, states that the petitioners would not be entitled to receive the salary till 02.01.2016 as they had stopped attending the school during the said period. It is stated that when the respondent no.1-Management was taking action against one employee, who had committed gross misconduct, the petitioners herein had stopped attending the school in support of the said employee. It is stated that the absence of the petitioners in the respondent no.2-School caused great prejudice to the respondent no.1-Management and the quantity of education deteriorated. It is submitted that though the salary bills of the petitioners were tendered to the respondent no.3, they were returned back on this count. It is stated that the respondent no.1-Management may not be directed to pay the subsistence allowance to the petitioners as the respondent no.3 has not released the salary grants in favour of the respondent no.1-Management. The learned counsel sought for the dismissal of the writ petition.

On hearing the learned counsel for the parties, it appears that there is a serious dispute in regard to the attendance of the petitioners, in the respondent no.2-School from July-2015 till 02.01.2016, when their services were suspended. There is word against word. It would not be possible for this Court to decide this question in exercise of the writ jurisdiction. The petitioners are free to agitate the issue of non-payment of salary from July-2015 till 02.01.2016 before an appropriate forum. It would, however, be necessary to direct the respondent no.1-Management to pay the subsistence allowance to the petitioners from 02.01.2016 till 03.05.2016, when their services were terminated. The primary responsibility of paying the subsistence allowance would be on the respondent no.1-Management, more so, when it is the case of the respondent no.3 that the respondent no.1-Management had not sought the prior permission of the respondent no.3 before suspending the petitioners. Be that as it may, we are not deciding the issue in regard to the liability of the respondent no.3 in reimbursing the amount that would be paid by the respondent no.1-Management to the petitioners towards arrears of subsistence allowance, in this petition. The respondent no.1-Management is entitled to agitate this question before the respondent no.3, if need be.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondent nos.1 and 2 are directed to pay the arrears of subsistence allowance to the petitioners from 02.01.2016 till 03.05.2016, within a period of two months.

Order accordingly. No costs.

JUDGE

JUDGE

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