

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

WRIT PETITION NO.4250 OF 2015

Ramesh s/o Kisanrao Kale

-vs-

The Education Officer (Secondary), Zilla Parishad, Buldana and ors.

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

Court's or Judge's Orders.

Shri A. B. Patil, counsel for the petitioner.
Smt K. Joshi, AGP for respondent No.1.
Shri K. S. Narwade, counsel for respondent Nos.2 and 3.

**CORAM : SMT. VASANTI A. NAIK &
A.S.CHANDURKAR, JJ.**

DATE : FEBRUARY 11, 2016

By this petition, the petitioner impugns the order of the respondent Management dated 06/07/2015 suspending the petitioner pending initiation of a departmental enquiry under the provisions of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules, 1981.

According to the petitioner who is working as the Headmaster in the school run by the respondent Management, the respondent No.3 who is the President of the trust was illegally demanding money from the petitioner and the other employees and the said amounts were paid as per the illegal demand. It is stated that when the petitioner and the other employees refused to pay as per the illegal demand, the respondent No.3 directed the petitioner to deduct 5% amount from the salary of each of the employees towards the fund for upliftment of the school. It is submitted that the staff in the school agitated the matter before the

Education authorities and also before the Member of the Legislative Council. It is stated that in view of the intervention of the Member of the Legislative Council, the Education Officer asked the petitioner Headmaster to stop making the deductions. It is stated that it is held by the Education Officer that the deduction of 5% of salary was illegal. According to the petitioner, after the deduction was stopped in pursuance of the order of the Education authorities, the respondent Management has malafide issued the order of suspension and has illegally decided to hold a departmental enquiry against the petitioner. It is stated that the action of suspending the petitioner and holding an enquiry is actuated by malice and the impugned order is liable to be quashed and set aside.

Shri Narwade, the learned counsel for the respondent No.3 relied on the affidavit in reply and denied the submissions made on behalf of the petitioner. It is denied that money was demanded from the staff illegally and the action of suspending the petitioner is actuated by malice. It is stated that the petitioner was misconducting himself and hence the respondent Management decided to initiate an enquiry against the petitioner after framing charges and suspending him.

On hearing the learned counsel for the parties, it appears that it will not be proper to entertain the writ petition pending enquiry against the petitioner under the provisions of the Rules of 1981. It appears that the petitioner was suspended under the provisions of the Rules of 1981 during the pendency of the enquiry. If the petitioner is of the view that the action on the part of the respondent of initiating the enquiry against the petitioner is actuated by

malice, the petitioner may raise the ground in that regard in the enquiry. The petitioner is also entitled to defend the action against him on the other available defences. The writ petition is premature as by the said writ petition, the petitioner has impugned the order of suspension of the petitioner pending the enquiry.

In view of the aforesaid, the writ petition is dismissed with no order as to costs. The points raised in the petition are however kept open.

Since the enquiry was stayed by this Court, the learned counsel for the respondent Nos.2 and 3 states that the Management would provide an opportunity to the petitioner to participate in the enquiry proceedings and defend himself. Order accordingly.

JUDGE

JUDGE