

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 0952 of 2017

District : Jalgaon

Kishor s/o. Anant Natekar,
Age : 52 years,
Occupation : Service,
At present under Suspension,
R/o. Sheth L.N.S. Vidyalaya 7,
Jalgaon, at Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai - 32.

2. The Education Officer
(Secondary),
Zilla Parishad,
Jalgaon, at Jalgaon.

3. The Shikshan Prasarak Mandal,
Jalgaon, at Jalgaon,
Through its President.

4. Sheth L.N.S. Vidyalaya-2,
Jalgaon, at Jalgaon,
Through its Head Master.

.. Respondents.

.....

Mr. A.G. Talhar, Advocate, for the petitioner.

*Mr. P.G. Borade, Asst. Government Pleader, for
respondent nos.01 and 02.*

.....

**CORAM : V.M. KANADE &
SANGITRAO S. PATIL, JJ.**

DATE : 27TH JANUARY 2017

ORAL ORDER :

Heard.

02. The petitioner's grievance is that he has been suspended without following procedure under Rule 35(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 [**For short, "MEPS Rules"**].

03. We have perused the order of suspension. It discloses that on written complaints of parents of two students, the Management had taken decision to suspend the petitioner. The decision is also communicated to the Education Officer (Secondary) of Zilla Parishad. Contention of the petitioner, that prior approval is not taken, does not appear to be correct. Moreover, even assuming that prior approval has been taken, in view of Section 35(4) of the MEPS Rules, the obligation to make payment of subsistence allowance shall be on the Management. Section 35, Sub-clause 4 of the MEPS Rules reads as under :-

" In case where the employee is suspended by the Management without obtaining prior approval of the appropriate authority as aforesaid, the payment of subsistence allowance even during the first four months of suspension and for further period thereafter till the completion of inquiry shall be made by the Management itself. "

In view of this clear provision, we are unable to accept the submission made by the learned Counsel for the petitioner.

04. Preserving right of the petitioner to take out appropriate proceedings at appropriate stage, the Writ Petition is disposed of.

(Sangitrao S. Patil)
JUDGE

(V.M. Kanade)
JUDGE

.....