

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

CONTEMPT PETITION NO. 460 OF 2016
IN WP/10044/2012

CHANDRAJEET JAYSING SURYAWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Shri Palodkar Devdatt P.
AGP for Respondents 1 & 5 : Shri N.T.Bhagat.
Advocate for Respondents 2 & 3 : Shri A.G.Talhar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 31st January, 2017

Per Court:

1 After considering the contentions of the litigating sides and upon going through the grounds raised and the affidavit in reply dated 29.11.2016, I am of the view that disputed questions have been raised before this Court in the backdrop of the directions issued by this Court vide its judgment dated 27.04.2016 delivered in Writ Petition No.10044/2012 (*The President, Hindi Education Society vs. Chandrajeet Jaysing Suryawanshi*).

2 In paragraph 17 of the judgment dated 27.04.2016, the following directions were issued:-

"17. In the light of the above and considering the ratio laid down by the Hon'ble Supreme Court in the Vidya Vikas Mandal Case (supra), the impugned judgment of the School Tribunal is modified as under :-

- [a] Respondent No.1 employee shall be treated as having been notionally reinstated in service and placed under suspension from the date of termination which is 17/03/2011.
- [b] He shall be entitled for suspension allowance as per rules and the petitioner/Management shall pay him the arrears of suspension within a period of 8 (eight) weeks from today.
- [c] The petitioner/Management shall pay the monthly suspension allowance regularly during the pendency of the disciplinary proceedings.
- [d] The petitioner/Management shall issue a charge sheet to the employee within 4 (four) weeks from today and conduct the disciplinary proceeding strictly in accordance with the MEPS Rules, 1981.
- [e] The petitioner/Management is at liberty to request the Education Department for reimbursement of the suspension allowance paid to respondent No.1/employee provided the same can be granted strictly in accordance with Law."

3 The Petitioner relies upon the Government Resolution dated 14.10.2010 by which the Shikshan Sevak, who completes three years, will have to be issued with an order of regularization. If no such order is issued, the said Shikshan Sevak stands deemed permanent in service. If his performance during the three years is not satisfactory, the Employer will have to issue an order of extension of his tenure within one month.

4 Shri Talhar, learned Advocate, submits that there are other

Government Resolutions which indicate that unless an order of confirmation is not issued, a Shikshan Sevak will not be deemed to be permanent.

5 Considering the contentious issues and keeping in view that the Petitioner has been subsequently terminated after completion of the enquiry and the said order of termination is subject matter of a new Appeal bearing No.112/2016 before the School Tribunal at Nashik, this Contempt Petition is disposed of. However, I deem it proper to keep the aspect of appropriate payment of suspension allowance open for the School Tribunal to consider while dealing with the appeal filed by the Petitioner.

6 Needless to state, if the School Tribunal comes to the conclusion that the Respondent has unfairly paid lesser suspension allowance to the Petitioner, it shall consider the aspect of vitiating the disciplinary proceedings in accordance with the position of law. All the contentions of the litigating sides are, therefore, kept open.