

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

WRIT PETITION NO. 8935 OF 2015

Maroti Mallu Vaibhare ...Petitioner

VERSUS

The State of Maharashtra & ors. ...Respondents

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Shri N.P.Patil Jamalpurkar, advocate for petitioner

Shri M.B.Bharaswadkar, A.G.P. For respondent no. 1

Shri P.V.Diggikar, advocate for respondent no.2

Shri S.R.Chaukidar, advocate for respondent no.3

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 10th January, 2017

O R D E R :-

Mr. Patil, learned counsel for the petitioner submits that the petitioner is entitled for the subsistence allowance during the period of suspension for 120 days and thereafter regular monthly salary, however, same is not paid. The termination order was set aside by the School Tribunal and as per the order of School Tribunal the petitioner was to be kept under suspension and

re-inquiry was to be done. As no subsistence allowance is paid, the petitioner does not have any means of livelihood.

2 Mr.Chaukidar, learned counsel submits that, in fact, the petitioner did not attend the headquarters, did not attend the inquiry, and subsequently, he is terminated on 23.10.2015 on completion of inquiry. As the petitioner did not attend the headquarters he is not entitled for subsistence allowance.

3 The School Tribunal partly allowed the appeal filed by the petitioner bearing No. 38 of 2012, by virtue of which the School Tribunal set aside the termination order and further directed management to conduct the inquiry afresh and in the mean time the present petitioner would be deemed to be under suspension from the date of the said order i.e. 5.3.2015. The petitioner during the period of suspension may be entitled for subsistence allowance, whether the petitioner

attended the headquarters or not is disputed question of fact, which this Court cannot go into in writ jurisdiction.

4 The respondent management shall forward the proposal in respect of subsistence allowance to be paid to the petitioner for the period from 5.3.2015 to 23.10.2015. On receipt of the said proposal, the Education Officer shall process the same and take decision about the payment and shall pay it expeditiously, preferably within three months from the date of receipt of proposal. The management shall forward the proposal within four weeks from today.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)