

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION No. 9203 OF 2013
WITH
WRIT PETITION No. 7562 OF 2013
WITH
CONTEMPT PETITION No. 460 OF 2014**

Sachin H. Deshpande ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 9629 OF 2015**

Rashtriya Shikshan Mandal & Anr ... Petitioners
V/s.
State of Maharashtra & Ors. ... Respondents

Mr. Rahul Nerlekar, for the Petitioner in WP. 9203/2013,
7562/2013 and CP. 460/2014.

Mr. Nitin A. Kulkarni a/w A. R. Belge, for the Petitioners in WP.
9629/2015 & for Respondent Nos. 4 and 5 in WP. 9203/2013 &
WP. 7562/2013 and for Respondent No. 3 in CP. 460/2014.

Mr. R. V. Govilkar a/w Kunal Nawale, for Respondent No. 3 in WP.
9203/2013 & WP. 7562/2013.

Mr. C. P. Yadav, AGP for Respondent Nos. 1 and 2 in all writ
petitions and for Respondent No. 1 in CP. 460/2014.

**CORAM : B.R. GAVAI AND
MANISH PITALE, JJ.**

DATE : 06th DECEMBER, 2017.

P.C. :

1. Writ Petition No. 9203 of 2013 is filed by the Petitioner challenging the decision of the Respondent-Management, directing to hold the departmental proceeding against the Petitioner.
2. The Writ Petition No. 7562 of 2013 is filed by the Petitioner challenging his suspension order during pendency of the departmental proceeding.
3. The grievance of the Petitioner is that though there are statutes framed by Respondent No.3, and that though Respondent No.5 – College, of which the Petitioner is an employee, is affiliated to Respondent No.3 - University, the departmental proceeding conducted under the M.C.S.R. is not a relevant statute.
4. The other contention raised on behalf of the Petitioner is that he is not being paid subsistence allowance under the Rules framed under the Maharashtra Universities Act.
5. Insofar as initiation of departmental proceeding and suspension is concerned, we are not inclined to interfere with the

same inasmuch as initiation of departmental proceeding and suspension during the pendency of such proceeding, is within the scope of the Management. However, insofar as grievance of the Petitioner with regard to holding a departmental proceeding as per the provisions of the statute framed by Respondent No.3 is concerned, we find that the grievance of the Petitioner is justified. Writ Petition Nos. 9203 of 2013 and 7562 of 2013 are, therefore, disposed of with a direction to Respondent-Management to deal with the departmental proceeding, suspension and the subsistence allowance of the Petitioner as per the statute framed by Respondent No.3. However, taking into consideration the facts and circumstances, we further direct that the charge-sheet which is already issued to the Petitioner shall be construed to be the charge-sheet issued under the provisions of the said statute and the departmental proceeding from the stage of issuance of charge-sheet shall continue as per the provisions of statute framed by Respondent No.3.

6. Writ Petition No.9629 of 2015 is filed on behalf of the Management. It is contention of the Management that since the suspension of Respondent No.5 is as per the directions issued by the

Director of Ayurved (Respondent No.2), the responsibility of payment of the subsistence allowance would be of Respondent Nos.2 to 4.

7. The grievance of the Petitioner in respect of subsistence allowance as per the Rules framed by Respondent No.3 is also justified. We therefore, direct Respondent No.3 to submit the bills for subsistence allowance to the Assistant Director, Ayurved, Pune (Respondent No. 4), who shall sanction the said bills in accordance with law.

8. Undoubtedly, Respondent No.5 has been appointed against an approved grant in post, and no other teacher is appointed in his place. His suspension is effected as per the directions issued by Respondent No.2. We, therefore, find that the liability to pay subsistence allowance to Respondent No.5 would be of Respondent Nos.2 to 4. In that view of the matter, Writ Petition No. 9629 of 2015 is allowed, directing Respondent Nos.2 to 4 to reimburse the bills submitted by the Petitioner for payment of subsistence allowance to the Respondent No.5.

9. In view of the disposal of all three writ petitions, nothing survives in Contempt Petition No. 460 of 2014 and is accordingly, disposed of.

(MANISH PITALE, J.)

(B.R. GAVAI, J.)