

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

918 WRIT PETITION NO. 7881 OF 2018

PRATIBHA VISHWASRAO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Barlinge S.R.
AGP for Respondents 1 and 2 : Mr. K.N.Lokhande
Advocate for Respondent no.3 : Mr. R.B.Dhakane

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 31, 2018

O R D E R :

Mr. Barlinge, learned counsel for the petitioner submits that at the fag end of career, the petitioner has been issued the impugned order of suspension. The respondents have not initiated any inquiry nor any inquiry committee is constituted. Today, the petitioner is due to retire on attaining the age of superannuation. According to the learned counsel, after retirement, departmental inquiry cannot proceed. To substantiate his arguments, learned counsel relied on the judgment of the Apex Court in the

case of **Anant R. Kulkarni vs Y.P.Education Society and others**, reported in 2014 (3) Mh.L.J. 535 and the judgment of this Court in the case of **Ramdas s/o Tejram Bhoyar vs Education Officer, Nagpur and others**, reported in 2015 (5) Mh.L.J. 197.

2. Learned counsel further submits that even permission from the Education Officer is not obtained before suspending the petitioner. Suspension order also is not issued by way of punishment.

3. Learned counsel for respondent no.3 submits that the Management has got right to suspend an employee. Even if suspension is without permission of Education Officer, the same is not vitiated. The Management can still suspend the services of the petitioner on acts of misconduct.

4. We have considered the submissions of the learned counsel for the respective parties.

5. It is not disputed that today i.e. 31.7.2018 is the last day of working of the petitioner and the petitioner would retire on attaining age of superannuation. It is also not disputed by respondents that even inquiry committee is not constituted to initiate disciplinary inquiry against the petitioner.

6. In the judgment of Apex Court in the case of **Anant R. Kulkarni** and in the judgment of this Court in the case of **Ramdas s/o Tejram Bhoyar** (cited supra), it has been held that after retirement of an employee, departmental inquiry cannot be proceeded with under the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. It is also not disputed that the impugned order of suspension is not by way of punishment.

7. In view of the fact that now there is no question of departmental inquiry nor the impugned order is by way of punishment and that the petitioner is going to retire today itself, considering all these aspects of the matter, the impugned order is quashed and set aside.

8. Writ Petition is allowed accordingly. No costs.

[SUNIL K.KOTWAL, J.] [S.V.GANGAPURWALA, J.]

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