

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10454 OF 2017

Nihal Jafarsab Saudagar

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri Anand V. Patil Indrale, Advocate for the Petitioner.

Shri K. N. Lokhande, A.G.P. for Respondent Nos. 1 to 3.

Shri Amit A. Mukhedkar, Advocate for Respondent No. 4.

Respondent No. 5 served.

CORAM : **S. V. GANGAPURWALA &**
A. M. DHAVAL, JJ.

DATE : **8th February, 2018**

PER COURT :

1. The petitioner is placed under suspension on 13.5.2014. The petitioner seeks revocation of the suspension and reinstatement on the post of Headmaster, so also, impugns the communication dated 18.7.2017, issued by the Education Officer, saying that after the decision of the criminal case, then only decision would be taken to reinstate the petitioner as a Headmaster.

2. Mr. Patil, learned advocate for the petitioner submits that even as per the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977, the suspension

cannot be for more than four months. The Departmental Enquiry has to be completed within four months. The order of suspension cannot with stand for such a long period. The suspension is under the orders of the Education Officer. In those cases wherein the Education Department had suspended the employees of the private aided and un-aided schools, such suspension have been brought to an end under Government Resolution dated 29th September, 2017. According to the learned advocate, in criminal case even charges are not framed as yet.

3. Mr. Lokhande, learned A.G.P. submits that at present the administrator is managing the affairs of the Institution. The petitioner is involved in serious offence under the anti corruption. The petitioner cannot be reinstated as a Headmaster, as it is a responsible post. The post of Headmaster is isolated post and he has to look after day to day affairs of the school. As the petitioner is suspended in anti corruption matter, it is not proper to reinstate the petitioner or cancel the suspension of the petitioner during pendency of the criminal case.

4. It is almost four years the petitioner is under suspension. The petitioner is getting 75% subsistence allowance even without discharging any work. No departmental enquiry is initiated against the petitioner for the reason best known to the employer and the administrator. Keeping the petitioner under suspension

for such a long period would not subserve any purpose.

5. The petitioner is accused of a serious crime. In view of that, it would also not be appropriate to reinstate the petitioner on the post of Headmaster.

6. Considering that no departmental enquiry is initiated in the criminal case, even charges are not framed and that the petitioner is under suspension for almost four years, we pass the following order.

ORDER

I] The order of suspension shall stand revoked.

II] The respondent shall reinstate the petitioner on the post of 'Assistant Teacher', subject to the decision in the criminal case.

III] However, the pay of the petitioner would be protected, that also would be subject to the decision in the criminal case and the further decision to be taken by the management and / or the administrator.

7. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]