

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

WRIT PETITION NO. 9606 OF 2015

Yogirao Nivrutti Gawandi .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri. V. D. Gunale, Advocate for Petitioner.

Shri. S. G. Karlekar, A.G.P. for Respondent Nos. 1 and 2.

Shri A. S. Shelke, Advocate for Respondent Nos. 3 and 4.

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

DATED : 18th April, 2018

PER COURT:

. We have heard Mr. Gunale, learned counsel for the petitioner and Mr. Shelke, learned advocate for Respondent Nos. 3 and 4, so also, the learned Assistant Government Pleader.

2. Mr. Gunale, the learned counsel submits that the petitioner on attaining the age of superannuation has retired on 28.02.2018.

3. In view of that prayer clause 'C' challenging the order of suspension does not survive.

4. The petitioner has made another prayer for grant of subsistence allowance as per rules and regular salary after completion of 120 days of suspension order.

5. The suspension order was not revoked. According to the parties the petitioner was reinstated on 10.12.2015.

6. The petitioner is required to be paid subsistence allowance as per the rules. It is submitted that the respondent had forwarded the proposal for payment of the subsistence allowance to the petitioner, as the petitioner was suspended with the prior permission of the Education Officer.

6. The petitioner may approach the Education Officer. The petitioner shall file application with the Education Officer giving details of the subsistence allowance, according to the petitioner to which he is entitled to. The Respondent Nos. 3 and 4 may also give the details of the payment of subsistence allowance.

7. The Education officer shall after considering the rules determine the subsistence allowance the petitioner is entitled to for the period the petitioner was under suspension. The same shall be done within four (04) months from the date of application of the petitioner, after hearing the petitioner and the Respondent Nos. 3 and 4. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]