

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14529 OF 2017

Digambar Vitthalrao Dhawale

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri R. D. Biradar, Advocate for the Petitioner.

Shri S. B. Pulkundwar, A.G.P. for Respondent / State.

Shri V. D. Gunale, Advocate for Respondent No. 4.

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

DATE : 8th February, 2018

PER COURT :

1. The petitioner is challenging the order of suspension dated 27.11.2017.

2. Mr. Biradar, learned advocate for the petitioner submits that the respondent has illegally suspended the petitioner without permission of the Education Officer as required under Rule 33 of the MEPS Rules. Learned advocate submits that on false and frivolous grounds the departmental enquiry is sought

to be initiated against the petitioner. The petitioner is a seniormost teacher in the school. Even subsistence allowance is not paid to the petitioner, except for one month. All these facts vitiates the order of suspension.

3. Mr. Gunale, learned advocate submits that the petitioner is paid the subsistence allowance regularly. The departmental enquiry is initiated and 2 to 3 hearings are also over. Learned advocate submits that subsequent to the suspension, the permission is granted for suspension.

4. According to Mr. Biradar, learned advocate the Education Officer has subsequently cancelled the said permission also.

5. It is not disputed that the departmental enquiry is in process and the management has 120 days to conduct the enquiry. Even as per the MEPS Rules, suspension is not by way of punishment but in contemplation of departmental enquiry.

6. In view of that, it would not be possible for us to entertain the petition with regard to suspension at this stage.

7. If the subsistence allowance is not being paid, the respondent Nos. 4 and 5 shall pay the subsistence allowance to the petitioner regularly. The departmental enquiry shall be conducted as per Rules only. The petitioner would be entitled for the relevant documents relied by the management.

8. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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