

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

WRIT PETITION NO. 14866 OF 2017

Vyankatrao Raghunathrao Kaname

.. Petitioner

Versus

The State of Maharashtra through its
Secreatary, Education and Sports
Department, Mantralaya, Mumbai
and ors.

.. Respondents

Mr V.D. Gunale, Advocate for petitioner

Mrs A.V. Gondhalekar, A.G.P. for respondents no.1 and 2

Mr A.N. Sabnis, Advocate for respondent no.3

Mr J.R. Patil, Advocate for respondent no.4 and 5

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

DATE : 23rd February 2018

PER COURT

1. The petitioner assails the order of suspension.
2. Mr Gunale, learned Advocate for petitioner submits that order of suspension is *mala fide* and passed with an ulterior motive. On the day, the suspension order was passed, respondents no.4 and 5 did not have any authority to pass the suspension order. The learned Advocate for petitioner submits that even permission from the Education Officer was not obtained before suspending the petitioner. On false and frivolous grounds, the order of suspension is passed. On the day, on which the impugned order was passed, there were two rival groups in the management.
3. The learned Advocate for respondents no.4 and 5 submits that the respondents no.4 and 5 are in the management. Even order of injunction is passed in their favour restraining the rival group from

interfering in the affairs run by the petitioner. Learned Advocate submits that the order of suspension is passed, the departmental enquiry is also initiated and the petitioner has also given his nominee to the enquiry committee and even the charges are framed.

4. At this stage, we are only required to consider the suspension order. It appears that there are rival groups in the management claiming to be in power. Initially, on the change report being filed and applications being made, the office of the Joint Charity Commissioner directed the parties to maintain status quo and subsequently, the order is passed in favour of respondents no.4 and 5 restraining the rival group from interfering in their management.

5. Respondents no.4 and 5 are duty bound to pay the subsistence allowance to the petitioner. Non-payment of subsistence allowance has its own consequence with regard to the enquiry. If respondents no.4 and 5 fail to pay subsistence allowance to the petitioner, the consequences will follow. As such, it is duty of respondents no.4 and 5 to promptly and regularly pay the subsistence allowance to the petitioner.

6. The suspension is not by way of punishment, however, is pending enquiry. The enquiry has already commenced. Even, the petitioner has given his nominee to the enquiry committee. Rule 37 (2) (f) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act mandates completion of enquiry within 120 days or within such time, as may be extended by Deputy Director of Education else the suspension stands revoked. The said period has not yet lapsed.

7. As the suspension is not by way of punishment, but pending departmental enquiry, we are not inclined to entertain the petition at this stage.

8. In light of above, writ petition is disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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