

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

CIVIL APPLICATION (CAW) NO. 821 OF 2018

IN

WRIT PETITION NO.2604 OF 2015

(The Vidarbha Youth Welfare Society, Amravati and another ..vs.. Shri Prashant Vasudeorao
Deshmukh and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.D. Bhuibhar, Counsel for the petitioners,
Shri Agnihotri, Counsel h/f. Shri V.V. Bhangde, Counsel for respondent 1,
Shri N.H. Joshi, AGP for respondent 2.

CORAM : ROHIT B. DEO, J.

DATED : 07-09-2018

The petitioners are seeking disposal of the petition.

2. The challenge in the petition is to the judgment and order dated 26-3-2015 rendered by the School Tribunal, Amravati in Appeal 47/2012, by and under which the petitioners are directed to reinstate respondent 1-employee in service with back-wages from the date of termination i.e. 04-7-2012. This Court, while issuing notice on 21-7-2015 stayed the effect, operation and implementation of the said judgment. By order dated 21-10-2015 while issuing Rule, this Court permitted the petitioner to take fresh decision in respect of the allegations against respondent 1, from the stage of Rule 33 of the 1981 Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("Rules" for

short), in consonance with the liberty granted by the School Tribunal

3. Pursuant to the said order/s the petitioners conducted the enquiry and since the charges against the employee were held proved in the enquiry, he was terminated vide order dated 02-2-2018.

4. Concededly, the termination order dated 02-2-2018 is challenged by the employee before the School Tribunal.

5. The learned Counsel for the employee Shri Agnihotri states that he has no objection if the petition is disposed of. However, he submits that the employee would be entitled to be paid subsistence allowance from the date of the first termination i.e. 04-7-2012 in the light of the law enunciated by the Hon'ble Apex Court *inter alia* in the decision in ***Vidya Vikas Mandal and another v. Education Officer and another, 2007(3) Mh.L.J. 801***. The submission is well merited.

6. The petition is disposed of with the following directions :

- (i) The petitioners shall pay subsistence allowance to respondent 1 with effect from 01-7-2012 till the date of the second termination i.e. 02-2-2018.
- (ii) The petitioners have deposited Rs.20,86,575/- in

this Court on 01-12-2015, which is invested in fixed deposit. The employee was permitted to withdraw Rs.5,21,644/-, by order dated 04-4-2016. The amount withdrawn by the employee shall be accounted for and the employee shall be permitted to withdraw the balance amount of Rs.18,32,373/- together with interest accrued on Rs.5,63,169/- (the subsistence allowance payable for the period 04-7-2012 till 12-2-2015.). It is clarified that the subsistence allowance for the period 26-3-2015 to February 2018 shall not attract interest.

(iii) The balance amount, if any, be returned to the petitioners.

(iv) The School Tribunal is directed to finally dispose of the appeal within six months from the date this order is communicated.

JUDGE

adgokar