

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

WRIT PETITION NO. 2926 OF 2018

(Dhaniram s/o Zingar Maharwade vs. The State of Maharashtra thr. its Secretary, Tribal
Development Department & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
Z.A. HAQ, JJ.
JULY 18, 2018.**

Heard Shri I.N. Choudhari, learned counsel for the petitioner, Mrs. M.A. Barabde, learned AGP for respondent Nos. 1 & 2 and Shri A.S. Dhore, learned counsel for respondent Nos. 3 & 4.

2. The petitioner challenges the order of suspension dated 10.05.2018. This Court has issued notice and the respondent – management has placed on record a Resolution dated 09.05.2018 by which it has authorized the Secretary to take necessary action against the petitioner.

3. Shri Choudhari, learned counsel submits that this resolution also is bad in law.

4. After hearing, we are not inclined to intervene in the matter in writ jurisdiction at this juncture. The counsel for the management has fairly stated that the arrears of wages payable to the petitioner during the period of suspension shall be made over to him by the management immediately. Though the petitioner claims that there is no previous approval of the department before ordering such suspension, even in the absence of such permission the

employer can order suspension. If employer orders such suspension, the employee like the petitioner is entitled to full salary as subsistence allowance.

5. The inquiry has progressed and the petitioner is participating in it. He is cross examining the management witnesses. The inquiry is fixed today.

6. We, therefore, direct respondent Nos. 3 & 4 to arrange to pay to the petitioner arrears of his full wages for the period of suspension till 30.06.2018 before next date/ hearing in the Departmental Enquiry. If such payment is released, it is open to the petitioner to participate in the Departmental Enquiry. If the payment is not released, we grant the petitioner leave to approach again with appropriate grievance.

7. The other contentions about the validity of delegation of power to the Secretary and initiation of action by the Secretary or then role of Chairman/ President of the Trust in the matter are kept open and can be raised by the petitioner at appropriate juncture.

8. With these directions and observations, we partly allow the present petition and dispose it of. However, there shall be no order as to costs.

JUDGE

JUDGE