

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

WRIT PETITION NO. 8422 OF 2018

Vandana D/o. Sheshrao Kadam Petitioner

Versus

The State of Maharashtra & Ors. Respondents

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Shri. Avishkar S. Shelke, Advocate for the petitioner

Shri. P. S. Patil, AGP for respondent/State

Shri. S. B. Pulkundwar, Advocate for respondent No. 2

Shri. Avinash S. Hande, Advocate for respondents No. 3 and 4

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

DATE : 04TH FEBRUARY, 2019

ORAL ORDER:

. The petitioner came to be suspended on 31.05.2018. The petitioner relies on Rule 37(2)(f) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Rules, 1981 (hereinafter referred to as “MEPS Rules”) to contend that, on lapse of 120 days the suspension automatically stands revoked.

2. The learned counsel for the respondents submits that, the departmental enquiry is initiated and the Inquiry Committee constituted on 27.12.2018.

3. We had specifically asked the learned counsel for respondents as to when the respondents appointed their Inquiry Officer. The answer was, on or about 27.12.2018. The same was after lapse of six months. In fact, within four months the inquiry ought to have been concluded otherwise Rule 37(2)(f) of the MEPS Rules would apply.

4. In the light of the above, the petitioner is not responsible for the delay. This Court in cases of Hamid Khan Nayyar s/o Habib Khan v. Education Officer, Amravati and others, reported in 2004(4) Mh.L.J. 513 so also in Trimbak Ashroba Kadam Versus The State of Maharashtra and others (Writ Petition No. 9205 of 2007) decided on 21.02.2018, has held that, the inquiry shall ordinarily be completed within a period of 120 days from the date of first meeting of the Inquiry Committee or from the date of suspension of the employee, whichever is earlier. In case the inquiry is not completed within the period of 120 days or within the extended period, the employee shall cease to be under suspension and shall be deemed to have rejoined duties.

5. In the present case, the suspension has not been extended further by the Education Officer.

6. In the light of the above, the suspension order cannot continue further and the suspension now shall stand revoked and the petitioner shall rejoin the duties immediately. However, the departmental inquiry may proceed in accordance with law. As far as subsistence allowance is concerned, same shall be paid as per rules within the period of two months, if not paid.

7. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde