

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

**CIVIL APPLICATION NO.12491 OF 2019  
IN WP/10873/2019**

**MUKIM MAHEBUB PATEL  
VERSUS  
AZAD ALI SHAH SHIKSHAN SANSTHA THROUGH PRESIDENT AND  
OTHERS**

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Advocate for the Applicant : Shri Gastgar Santosh B.  
Advocate for Respondents 1 and 2 : Shri S P Pandav

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 04<sup>th</sup> November, 2019**

**Per Court:**

1           While deciding the writ petition on 05.09.2019, this Court had passed a detailed order. It would be apposite to reproduce paragraph 5 of the said order hereunder :-

- "5.   *In view of the above, this petition is disposed off by setting aside the impugned order dated 5.4.2019 passed by the School Tribunal on the following terms as agreed between the parties:-*
- (a)   *The respondent No.1 / employee shall join duties with the petitioner / School on 11.9.2019 at 10.00 am. There shall be no controversy about the joining of duties.*
  - (b)   *If the management desires to continue the employee by allotting him the Lectures on daily basis, without suspending him, he shall be entitled for the salary scale as is admissible today for such a teacher and shall be paid his salary on month to month basis.*
  - (c)   *If the management desires to place the employee under suspension, it shall be obliged to seek an approval from*

*the Education Officer and if granted, he would be suspended subject to payment of suspension allowance as per admissible scale, in accordance with the Rules.*

- (d) The management shall follow Rule 36 and Rule 37 of the MEPS Rules scrupulously and shall conduct a departmental enquiry in accordance with the said Rules.*
- (e) Since the issue as to whether the employee was unauthorizedly absent is to be considered in the departmental enquiry along with any other charge as may be levelled, the issue of backwages from 15.6.2018 would be subject to the result of the departmental enquiry.*
- (f) In the event of any controversy or dispute between the parties, as regards the implementation of the above directions, the aggrieved party would be at liberty to approach this Court by filing a Civil Application."*

2            Since the parties were granted liberty to approach this Court by filing a Civil Application if any clarification is required, the applicant/ employee has preferred this Civil Application contending that he was not allowed to report for duties on 11.09.2019. Eventually, he was allowed to report for duties on 18.09.2019, but has not been allocated any work.

3            The learned advocate for the Management/ original petitioner has filed an affidavit in reply to this Civil Application. So also, he has tendered a copy of the apology letter dated 27.08.2012 tendered by the applicant/ employee to the Headmaster admitting an act of sexual exploitation of a Class VI girl student. It is stated that as the name of the girl student is mentioned in the said apology letter, the copy of the said letter has not been annexed to the affidavit in reply so as to protect the

identity of the girl student. I have perused the said apology and have returned the document to the learned advocate for the Management.

4           I am not required to go into the issue of the contents of the apology in this proceeding. Suffice it to say that since the proposal of the Management is tendered to the Education Officer (Primary), Zilla Parishad, Aurangabad for seeking permission to suspend the applicant/ employee pending the disciplinary enquiry, I deem it appropriate to direct the Education Officer (Primary) to grant the proposal for suspension with retrospective effect from 11.09.2019.

5           As such, this Civil Application is disposed off by observing that the applicant/ employee shall be deemed to be under suspension from 11.09.2019 until the result of the disciplinary proceeding. The applicant/ employee would be entitled to suspension allowance as is permissible under the rules. In the event, he is found to have taken up any job or avocation during the period of suspension, he would not be entitled for suspension allowance.

6           The Management would proceed to conduct the enquiry as is directed vide order dated 05.09.2019.