

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2164 OF 2019
IN
WRIT PETITION NO.2835 OF 2019**

Mrs.Mangal Pravin P. Kalbhor ... Applicant

In the matter between:-

Mumbai Modern Educational Academy ... Petitioner

V/s.

Mrs.Mangal Pravin P. Kalbhor and ors. ... Respondents

Mr.Satyajeet A. Rajeshirke for the Petitioner.

Mr.Rajeshwar G. Panchal for Respondent No.1-Applicant.

Mr.S.L.Babar, AGP for Respondent Nos.2 and 3-State.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 11, 2019.

P.C.:-

1. Heard Mr.R.G.Panchal, learned counsel for the applicant and Mr.S.A.Rajeshirke, learned counsel for the original petitioner.

2. Applicant is respondent No.1 in Writ Petition No. 2835 of 2019 filed by the original petitioner.

3. It may be mentioned that applicant was Head Mistress of Bhairav Vidyalaya managed by the original

Petitioner. By order dated 26th May, 2016, her services were terminated. This came to be challenged by the applicant by filing appeal before the School Tribunal, Mumbai in Appeal No.16 of 2016. By the order dated 28th July, 2017, passed by the School Tribunal, the Appeal was partly allowed by setting aside termination order dated 26th May, 2016 and remitting the matter back to the school management for a de-novo Departmental Enquiry against the applicant from the stage of issuance of statement of allegations.

4. It is contended that against the aforesaid order dated 28th July, 2017, original petitioner has filed the related writ petition, Writ Petition No.2835 of 2019, very belatedly, that too, when it was confronted with contempt proceedings.

5. Be that as it may, by order dated 5th August, 2019, the writ petition was admitted for hearing by issuing Rule returnable on 23rd January, 2020. This court *prima-facie* found that the findings recorded by the School

Tribunal were without appreciating the evidence on record and the relevant provisions of law and accordingly, stayed the order of the School Tribunal dated 28th July, 2017.

6. While staying the order of the School Tribunal, this court granted liberty to the applicant who is arrayed as respondent No.1 in the related writ petition to move application seeking monetary benefits.

7. In terms of such liberty granted, present application has been filed.

8. Learned counsel for the applicant has referred to the order passed by the School Tribunal and contends that in terms of the aforesaid order applicant would be deemed to be under suspension from the date of termination order dated 26th May, 2016 till the stay order passed by this court. Therefore, during this period applicant would be entitled to subsistence allowance in terms of the relevant Rules.

9. I am afraid such contention of the applicant appears to be misplaced. When this court has stayed the order of the School Tribunal, the effect of the stay order is that the order of the Tribunal is rendered ineffective during the pendency of the related writ petition. In such an eventuality, when the order setting aside termination has been stayed, question of treating the petitioner to be under deemed suspension would not arise till such time the stay order passed by this court is in operation.

10. However, considering the fact that this court had issued returnable Rule on 23rd January, 2020, court is of view that an endeavour may be made to dispose of the writ petition on the returnable date itself, having regard to the fact that School Tribunal had interfered with the termination order of the applicant.

11. Subject to the above, civil application is dismissed.

(UJJAL BHUYAN, J.)