

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.5 OF 2019
IN
WRIT PETITION NO.3015 OF 2018
WITH
NOTICE OF MOTION NO.557 OF 2018
IN
WRIT PETITION NO.3015 OF 2018
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Deepak Inder Ahuja	 Applicant
<i>In the matter between</i>	
Deepak Inder Ahuja	 Petitioner
Vs.	
The State of Maharashtra & Others	 Respondents

Ms Panthi Desai i/by M.P. Vashi & Associates for
the Applicant/Petitioner.

Mr. Kedar Dighe, AGP, for Respondent Nos.1 to 3.

Mr. Kanhaiya S. Yadav i/by Mr. Neel G. Helekar
for Respondent Nos.4 & 5.

Mr. Jitendra P. Patil for Respondent No.6.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : FEBRUARY 22, 2019

P.C:

1. After the motions were heard and earlier orders have
been passed, it has now been fairly stated by the

petitioner/applicant's Advocate that the services of the petitioner have been terminated.

2. It is fairly stated that the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 being applicable, the petitioner will have to impugn the termination order by filing an Appeal under Section 9 of the said Act before the Competent School Tribunal.

3. Therefore, nothing survives in this writ petition, according to us.

4. However, Ms Desai argues that this petition was filed to challenge a suspension which, in the opinion of the petitioner, is wholly illegal. Such a suspension, therefore, does not enable the authority/Management to hold any inquiry. Bearing in mind the prayers in the writ petition, the subsequent events do not make it infructuous by any means.

5. We do not express any opinion on the contentions

for we do not think that by our order we are putting an end to the controversy in any manner or foreclosing the remedies of the petitioner.

6. Once the petitioner has been terminated, then he has to approach the School Tribunal.

7. In the School Tribunal, when the petitioner impugns the termination, he can also bring to the notice of the School Tribunal the events preceding the termination, in the sense not only he can impugn the order and the inquiry proceedings by alleging that they are not fair, just and impartial but can also argue that he was put under suspension illegally and that while under suspension and facing inquiry, he was treated unfairly by not releasing his entire subsistence allowance. Further, the inquiry was not completed within the stipulated period and the extension granted allegedly to complete it is also illegal.

8. All such contentions can be raised before the School Tribunal while impugning the termination and all reliefs which may include some of the facets and aspects of the prayers in this

petition can also be claimed. Eventually, it is the School Tribunal which will determine the issues in accordance with law. In the event the School Tribunal finds that the termination is illegal, it is not precluded from granting all the consequential and ancillary reliefs, including payment of backwages and amounts for such duration as were payable when the petitioner was placed under suspension. In the circumstances, we do not think that we should allow this writ petition to remain on the file.

9. In the light of the subsequent developments and in view of our clarification as above, both the petition and the notices of motion are disposed of. We clarify that we have not expressed any opinion on the rival contentions and all of them are kept open.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)