

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

WRIT PETITION NO.458 OF 2020

(The President, Hidayat Education & Welfare Society, Amravati and another Vs. The Education Officer (Sec.), Z.P., Amravati and another)

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

Court's or Judge's orders.

 Shri Anand Parchure, Advocate for Petitioners.
 Mrs. K.R. Deshpande, AGP for Respondent No.1.
 Shri Anand Deshpande, Advocate for Respondent No.2.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 22nd JANUARY, 2020.

1] The petitioner is the management, which has preferred this petition as against the judgment and order dated 20.12.2019 delivered by the School Tribunal, Amravati vide which, Appeal No.46/2018 filed by respondent no.2 challenging his termination dated 05.10.2018, has been allowed and he has been granted reinstatement in service. Full back-wages are ordered and the petitioner employer is granted the liberty to conduct an enquiry as per the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

2] This matter was heard for sometime and the judgment delivered by the learned Full Bench of this Court in *Saindranath s/o Jagannath Jawanjal v. Pratibha Shikshan Sanstha and another* reported in 2007 (3) Mh.L.J. 753 and the judgment of the Hon'ble Apex Court in the matter of *Vidya Vikas Mandal and another v. Education Officer and*

another reported in 2007 (3) *Mh.L.J. (S.C.) 801*, have been perused.

3] The learned Advocates for the respective sides submit on instructions that the view taken by the Hon'ble Apex Court in paragraph 8 and 9 in *Vidya Vikas (supra)*, can be followed. Respondent no.2 is due to retire in October, 2020 and the management would endeavour to conclude the enquiry and pass final orders before he would superannuate.

4] In view of the above, clause 4 of the impugned order directing payment of full back-wages and emoluments would stand modified with the following direction:

- a] The petitioner management shall reinstate respondent no.2 in employment w.e.f. 01.02.2020.
- b] He shall be deemed to be suspended from 05.10.2018.
- c] He shall be paid his suspension allowance squarely as per the rules from 05.10.2018 till the enquiry is concluded as this period shall be termed as deemed suspension.
- d] The requirement to seek permission of the Education Officer under Rule 35 of the rules, is dispensed with.
- e] Since the petitioner management makes a solemn statement that after the termination of respondent no.2, no person was

appointed in his place and the school is 100% grant-in-aid, that the management shall submit the bill for such payment of suspension allowance and shall submit bills for continued payment of suspension allowance from February, 2020 within ten days to respondent no.1 Education Officer, who shall clear the said bills and facilitate the payment of suspension allowance to respondent no.2 within two weeks thereafter.

5] This petition is partly allowed in the aforestated terms.

(Ravindra V. Ghuge, J.)