

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

WRIT PETITION NO. 7813 OF 2021

Sonyabapu Balabhau Aware .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Amit A. Mukhedkar, Advocate for the Petitioner.
Shri P. K. Lakhotiya, A.G.P. for Respondent Nos. 1 and 2.
Shri S. M. Pandit, Advocates for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.**

DATE : 28TH OCTOBER, 2021.

FINAL ORDER :

1. The petitioner is challenging the order of suspension. The petitioner is suspended on 16.01.2021. According to the learned counsel for the petitioner, enquiry has not even commenced for a period of 120 days from the date of suspension. The petitioner is entitled for reinstatement. Reliance is placed on Rule 35 of the M. E. P. S. Rules and the judgment of the Division Bench of this Court in a case of Hrishikesh Vasantrao Kumbhar Vs. Zilla Parishad Sangli and others reported in *2017(1) Mh.L.J. 103* and in a case of Nanuram Dagadu Beldar Vs. State of Maharashtra and others reported in *2017(3) Mh. L. J. 251*.

2. The learned advocate for the respondents/management submits that, 50% of the salary as subsistence allowance is

deposited with the Zilla Parishad. The learned counsel further submits that, enquiry committee is constituted. The enquiry would be now proceeded further against the petitioner. Criminal case is registered against the petitioner for the offence punishable U/Sec. 376(1) of the Indian Penal Code.

3. The petitioner is under suspension from 16.01.2021. Admittedly, enquiry has not yet commenced. It is submitted that few days back enquiry committee is constituted. Rule 35 of the M. E. P. S. Rules is self explanatory. The petitioner does not appear to be responsible for delay in conducting enquiry.

4. In view of that, the order of suspension is set aside as on today. The subsistence allowance be paid to the petitioner from the date of suspension till today. The writ petition accordingly is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct.21