

(1)

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

931 WRIT PETITION NO.10610 OF 2022

**YOGESH ANNASAHEB THORAT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

....

Mr A. G. Ambetkar, Advocate for petitioner;
Mr S. G. Karlekar, A.G.P. for respondent/State

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 12th October, 2022

PER COURT:

1. The petitioner is aggrieved on account of the suspension order dated 30/09/2022 served upon him. The contention is, that there are certain offences registered against him. He has also obtained anticipatory bail. He desires to contest some elections and, therefore, he has been suspended. Reliance is placed upon the judgment delivered by this Court in **Nanuram Dagdu Beldar Vs. State of Maharashtra and others, 2017 (3) Mh.L.J. 251.**

2. The learned Advocate for the petitioner has strenuously harped on only one aspect of the matter. He co-relates the suspension of the petitioner to a crime registered against him, in

(2)

which, he has obtained ad interim anticipatory bail. Reliance on Nanuram Dagdu Beldar (supra), is also for the reason, that in Nanuram (supra), the suspension order only quoted the offence registered against the employee and because of the registration of the offence, the employee was suspended.

3. We find the submissions of the learned Advocate for the petitioner to be fallacious and besides the point. Needless to state, there are two types of suspension orders. One kind is, of suspending a person pending disciplinary proceedings. The other kind is, as regards imposing suspension by way of a punishment, after an employer has concluded that the charges are proved. In the instance case, there is not a whisper in the suspension order as regards any crime registered against the petitioner. What has been stated, is that he has committed a misconduct while discharging his duties in the Zilla Parishad Primary School at Haribabawadi, Saykhindi, Tq. Sangamner, Dist. Ahmednagar. Considering the conduct of the petitioner, the Management has decided to follow Clause 3 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 (for short 'the said Rules'), for conducting departmental enquiry. Exercising powers as prescribed under Rule 3(1)(a) & (b), the petitioner has been

(3)

placed under suspension pending disciplinary proceedings.

4. It does not call for any debate, that suspension pending disciplinary proceedings is within the domain of an employer. The legal obligation on the employer is, that the suspended employee has to be paid suspension allowance, as is mandated by law.

5. As such, we do not find any illegality in the order of suspension, which is sought to be challenged on the 10th day of its imposition. The petitioner would have adequate rights while facing the departmental enquiry/disciplinary proceedings. He would have a right to be paid suspension allowance as per the Rules.

6. In view of the above, this petition is devoid of merits and is, therefore, dismissed.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

sjk