

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

WRIT PETITION NO. 3145/2022.

Ajazuddin Zahiruddin

-VERSUS-

Public Education Society and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri P.A. Kadu, Advocate, for the Petitioner.
Shri S.M. Vaishnav, Advocate for Respondent Nos.1 and 2.
Ms.M.A. Barabde, A.G.P. for Respondent No.3.

CORAM : VINAY JOSHI, J.

DATE : NOVEMBER 21, 2022.

Heard.

2. The petitioner is an employee of respondent no.1 – Educational Society, who has been suspended on 26.08.2019, which was followed by termination dated 22.01.2020. The said action of management was challenged by the petitioner before the School Tribunal in an appeal bearing No.6/2020. The School Tribunal has set aside the termination and permitted management to conduct fresh enquiry from the stage of Rule 33

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of the Maharashtra Employees of Private School (Conditions of Service) Rules, 1981 (hereinafter referred to as “the 1981 Rules” for short).

3. The learned Counsel for the petitioner has initially challenged the order of School Tribunal granting liberty to the Management to conduct fresh enquiry, however, he has conceded before this Court that the petitioner is ready to face the enquiry, which is reflected in the order of this Court dated 13.06.2022.

4. The learned Counsel for the petitioner has submitted that now he has limited grievance regarding non payment of subsistence allowance, since beginning. It is his submission that the petitioner deserves for grant of subsistence allowance right from his date of suspension i.e. 26.08.2019 till completion of denova enquiry.

5. The management resisted the said contention by submitting that the petitioner is not at all entitled for grant of subsistence allowance for valid reasons.

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6. The learned Counsel for the petitioner has submitted that though he has agitated the ground regarding grant of subsistence allowance by relying on the decision of Supreme Court in case of **Vidya Vikas Mandal and another .vrs. Education Officer and another – [2007] 11 SCC 352**, however, it was not considered by the tribunal.

7. Both side conceded that the impugned judgment does not bear a reference at all whether the petitioner has argued for grant of subsistence allowance or not. In short there is no adjudication by the Tribunal regarding petitioners' entitlement for subsistence allowance or otherwise.

8. In that view of the matter, by consent of both the learned counsel for the parties, the matter is remanded back to the Tribunal for the limited extent i.e. for recording its finding only about petitioners' entitlement for subsistence allowance. Learned Counsel for both sides have agreed that they would only advance their submissions to said

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limited extent. The Tribunal shall complete the said exercise within a period of 6 weeks from the date of receipt of the record and proceedings.

9. In is made clear that the interim order operating in favour of the petitioner during the pendency of this petition, to continue till the said exercise is undertaken by the School Tribunal.

10. The learned Counsel for petitioner makes a statement that he would not raise any grievance about limitation to complete the enquiry as specified in Rule 37[f] of the 1981 Rules. Writ Petition is accordingly disposed of. No costs.

JUDGE