

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

CIVIL APPLICATION (CAW) NO. 1593 OF 2022

IN

WRIT PETITION NO. 3145 OF 2022

Ajazuddin Zahiruddin vs. 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.

Mr. P. A. Kadu, Advocate for petitioner.
Mr. S. M. Vaisnav, Advocate for respondent Nos. 1 and 2.
Ms. M. A. Barabde, AGP for respondent No.3.

CORAM : MANISH PITALE J.

DATE : 13/09/2022

CIVIL APPLICATION (CAW) NO. 1593 OF 2022

This is an application seeking recall of the
order dated 15/07/2022, which reads as follows :-

*“Learned counsel appearing for
respondent Nos.1 and 2, submits that he has
instructions from the said respondents to make
a statement that they shall pay subsistence
allowance to the petitioner from the date of his
suspension i.e. w.e.f. 26/08/2019.*

*2. List this petition on 29/07/2022 to
enable the respondent Nos.1 and 2 to abide by
the aforesaid statement. ”*

2. It is specifically stated in the application that the aforesaid statement was made on behalf of the respondent Nos.1 and 2 by a junior counsel appearing for the said respondent, without instructions.

3. Although the prayer made in the present application is vehemently opposed by the learned counsel appearing for the petitioner, this Court is of the opinion that for the reasons stated in the application, the same can be allowed.

4. Accordingly, the application is allowed and the order dated 15/07/2022 is recalled.

CIVIL APPLICATION (CAW) NO. 2007 OF 2022

In this application, the petitioner is seeking a direction against the respondent Nos.1 and 2 to restrain them from proceeding with the departmental enquiry against the petitioner in pursuance of the impugned judgment and order of the Tribunal.

2. It is highlighted that the respondent Nos.1 and 2 have not paid amount towards subsistence

allowance and the Tribunal also erred in not giving any specific direction in that regard.

3. In fact, this Court issued notice in the present petition, only on the said aspect of the matter pertaining to payment of subsistence allowance and also a statement made on behalf of the petitioner that he would be ready to face the enquiry, so long as the aspect of subsistence allowance is decided by this Court.

4. At this stage the learned counsel appearing for respondent Nos.1 and 2 submits that he has brought a cheque of Rs.75000/-, to be handed over to the petitioner, without prejudice to the rights and contentions in the present matter. Looking to the conduct of the respondent Nos.1 and 2, the petitioner is apprehensive that the cheque may not be honoured. In this context, the learned counsel for the petitioner submits that the bank account details of the petitioner shall be communicated to the learned counsel appearing for respondent Nos.1 and 2 during the course of the day. The learned counsel for the respondent Nos.1 and 2 makes a statement that amount of Rs.75000/- shall be transferred in the said account of the petitioner by tomorrow i.e. 14/09/2022.

5. In view of the above, list this petition along with the present application for further consideration/disposal on 26/09/2022.

6. In the meanwhile and till the next date of listing, the respondent Nos.1 and 2 shall not proceed with the enquiry.

JUDGE