

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

WRIT PETITION NO.4950 OF 2022

**SANJAY PRABHAKARRAO VAIDYA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Gore Ravindra Vitthal
AGP for Respondents/State : Mr. A.S. Shinde

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 19 AUGUST 2023

PER COURT :

1. The petitioner who has been superannuated, is aggrieved by the communication addressed to the Education Officer by the office of the Account General, refusing to process the pension papers on the ground that a criminal case is pending and that there was no 'No-enquiry certificate'.
2. As is pointed out by the learned AGP by referring to Rule 27 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, in case of a person who is superannuated against whom departmental enquiry and/or judicial proceedings are instituted, a provisional pension as provided in Rule 130 has to be sanctioned. If

such is the provision in the Rules, the impugned communication refusing to process the pension papers is clearly in violation of Rule 27. It does not indicate why even the provisional pension cannot be sanctioned to the petitioner even if there is a criminal case pending against him.

3. We allow the writ petition partly and relegate the matter to the respondent no.3, who shall take appropriate decision in the light of the above observations as expeditiously as possible and in any case within six weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb.