

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14377 OF 2023

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	Pramod Shivajirao Patil	]	
	Age – 48 years, Occu: Service, R/o. 12,	]	
	Umiyashakti Society, Kathe Galli,	]	
	Dwarka, Nashik	]	.. Petitioner.
	v/s.		
1	The State of Maharashtra	]	
	through the Secretary of Department	]	
	of Sports and Education, Mantralaya	]	
	Mumbai.	]	
2	The Commissioner/ Administrator	]	
	Nashik Municipal Corporation,	]	
	Department of Education, Rajiv	]	
	Gandhi Bhavan, Sharanpur Road,	]	
	Nashik.	]	
3	The Administrative Officer	]	
	Shikshan Mandal, Nashik	]	
	Municipal Corporation, Nashik.	]	
4	The Principal/ Head Master	]	
	Municipal Corporation School No.26,	]	
	Nashik.	]	.. Respondents.

Ms. Pranita P. Hingmire, for the Petitioner.

Mr. N. C. Walimbe, Addl. G. P with Smt. A. A. Puray, AGP for Respondent No.1-State.

Mr. Subhash V. Gutte, for Respondent Nos. 2 to 4.

**CORAM: A.S.CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ.
DATE : 13th DECEMBER, 2023.**

ORAL JUDGMENT (Per A. S. CHANDURKAR, J.):-

RULE. Rule made returnable forthwith and heard finally by consent of the learned Counsel for the parties.

2 The challenge raised in this Writ Petition is to the order of Suspension dated 25th October, 2023 passed by the Commissioner/Administrator, Nashik Municipal Corporation, thereby suspending services of the Petitioner in exercise of power of Rule 4 of the Maharashtra Civil Services (Discipline & Appeal), Rules 1979 (for short, 'the Rules of 1979').

3 Petitioner while serving as a primary teacher, was subjected to proceedings under Section 138 of the Negotiable Instrument Act, 1881. As a result of his conviction passed by the Trial Court and dismissal of the Appeal, he was placed under arrest for a period exceeding 48 hours. On that premise, the order of suspension came to be issued. After issuance of order of suspension, the Petitioner has been issued statement of imputation on 30th November, 2023 along with the charge-sheet. Enquiry against the Petitioner is thus pending.

4 Considering the fact that Petitioner was convicted under Section 138 of the Act of 1881 and not for any act or moral turpitude, we grant liberty to the Petitioner to move an application for seeking modification/ revocation of the order of suspension. Such course is permissible in terms of Rule 4 (5)(c) of the Rules of 1979.

5 Considering the facts of the case, the following order is passed:-

- (i) The Petitioner is at liberty to seek modification/ revocation of the order of suspension dated 25th October, 2023 by moving an application in that regard before the Commissioner/Administrator;

- (ii) If such application is moved by the Petitioner, same shall be decided by the competent authority in accordance with law within a period of ten days from receiving such application. The decision taken be communicated to the Petitioner. While deciding such application, the competent authority shall also take into consideration the Judgment of the Hon'ble Supreme Court in 2011 (1) N.C.C. 706 (Kaushalya Devi Massand v/s. Roopkishore).
- (iii) Needless to state that all remedies of the Petitioner are kept open.

6 Keeping all points raised in the Petition open, the Writ Petition is disposed of in aforesaid terms. Rule accordingly with no order as to costs.

(FIRDOSH P. POONIWALLA,J.)

(A.S. CHANDURKAR,J.)