



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

**WRIT PETITION NO. 244 OF 2024**

Ku.Nilima Sheshrao Kadu  
(Smt.Nilima wd/o Avinash Dafre)  
Aged about 45 years, Occupation  
Assistant Teacher, Lonkhairi Vidyalaya  
Somwaripeth, Nagpur(under suspension),  
R/o Plot No.102, Chandan Nagar,  
Kreeda Chowk, Nagpur.

.. **Petitioner**

**Versus**

Rashtriya Kamgar Education Society,  
Somwaripeth, Nagpur, through its  
Secretary Shri Deepak Marotrao Nagose,  
Aged about 57 years, Occupation Nil,  
R/o Plot No.49, Old Subhedar Layout,  
Nagpur - 440024

.. **Respondent**

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Mr. A.Z.Jibhkate, Advocate for petitioner.

Mr. Anup Dangore, Advocate for sole respondent.  
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**CORAM : NITIN W. SAMBRE AND**  
**ABHAY J. MANTRI, JJ.**

**DATED : APRIL 02, 2024**

**ORAL JUDGMENT** ( Per : N.W.SAMBRE, J. )

**Rule.** Rule made returnable forthwith. Heard finally  
by the consent of the learned counsel appearing for the parties.

**(2)** The case of the petitioner is that after having completed more than Nine years of service, she was placed under suspension vide impugned order dated 09/06/2023 and was subjected to enquiry. The enquiry is yet to be completed though statutory period of 120 days pursuant to the provisions of Rule 37(2)(f) is already over. As a sequel of above, it is the case of the petitioner that in view of the deeming provision referred above, she ought to have been reinstated.

**(3)** As against above, Mr.Dangore, learned counsel appearing for the respondent Management would urge that the enquiry proceeding is at conclusion stage. According to him, within couple of days the reports shall be received by the Management and appropriate decision will be taken. Till such period, the petitioner is already informed to be paid half of the salary towards the suspension allowance. He would, as such, claim that the Court should refrain itself from causing indulgence in extraordinary jurisdiction.

**(4)** The fact remains that the provisions of Rule 37(2)(f) prompts the enquiry to be completed within a period of 120 days from the date of first meeting of the enquiry committee or from the date of the suspension of the employee. The date of the suspension of the petitioner is 09/06/2023. The period of four months, as such, were over on 08/10/2023. Once the period of 120 days as prescribed under the aforesaid Rule is already over i.e. on 08/10/2023, in view of deeming provision, it was expected of the respondent Management to

demonstrate that they have continued the enquiry for the reasons which were approved by the Deputy Director of Education. In case the aforesaid steps are not taken by the Management, as a consequence of the aforesaid provision the order of suspension is deemed to be revoked and the petitioner's services are taken back on the establishment of the respondent Management.

**(5)** The provisions of Rule 37(2)(f) reads thus :-

*“37(2)(f) :- The inquiry shall ordinarily be completed within a period 120 days from the date of first meeting of the Inquiry Committee or from the date of suspension of the employee, whichever is earlier, unless the Inquiry Committee has, in the special circumstances of the case under inquiry, extended the period of completion of the inquiry with the prior approval of the Deputy Director. In case the inquiry is to be completed within the period of 120 days or within the extended period, if any, the employee shall cease to be under suspension and shall be deemed to have rejoined duties, without prejudice to continuance of the inquiry.”*

**(6)** The petitioner has further claimed that the petitioner's prayer for release of regular salary from 01/06/2023 to 08/06/2023 is duly conceded by the respondent Management with assurance that within eight weeks the salary shall be released in favour of the petitioner for above period.

**(7)** In the aforesaid background, we are of the view that the petition deserves to be allowed, thereby causing a declaration that the petitioner's suspension is deemed to be revoked and the petitioner

stood reinstate on the establishment of the respondent Management making her entitled for complete salary as the period of four months (i.e. 120 days) from the date of her suspension is already over and the respondent Management has failed to discharge the burden.

**(8)** As far as non-payment of the suspension allowance from 09/06/2023 to 30/06/2023 as is claimed in prayer clause (iii) is concerned, we deem it appropriate to direct the respondent Management to pay the same within a period of **four weeks** from today.

**(9)** Rule is made absolute in above terms.

**[ ABHAY J. MANTRI, J. ]**

**[ NITIN W. SAMBRE, J. ]**

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