



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

WRIT PETITION NO.2156 OF 2024

Sohail Ahmed Rafique Ahmed -Vs- Muslim Students Welfare Association and ors.

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

Court's or Judge's Orders.

Mr.R.L.Kadu a/w S.D.Chande, counsel for the petitioner/s.
Mr.P.S.Patil, counsel for respondent Nos.1 to 3.

CORAM :NITIN W. SAMBRE AND
:MRS. VRUSHALI V. JOSHI, JJ.
DATE : 21st OCTOBER, 2024.

1. Heard.
2. The challenge is to the suspension order dated 07.11.2023 on the ground that said goes contrary to the mandate provided under Rule 37(f) and Rule 35(2) of the Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981 (for short hereinafter referred to as the MEPS Rules.
3. Rule 37 of the MEPS Rules contemplates that inquiry to be ordinarily completed within a period of 120 days from the date of first meeting of the Inquiry Committee or from the date of suspension of the employee. It further contemplates that Inquiry Committee in a special circumstance, can extend the period of completion of the inquiry with the prior approval of the Deputy Director.

4. It further provides for the consequences in case, the inquiry is not completed within a period of 120 days. The Rule also provides for ceasing of the suspension and deemed joining of the duties by the suspended employee. If the mandate of completion of inquiry in 120 days is not adhered.

5. Rule 35(2) contemplates that the period of suspension shall not exceed four months except with the prior permission of the appropriate authority.

6. As such, it is claimed that the petitioner stood suspended on 07.11.2023 and pursuant to mandate provided under Rule 37(f), the inquiry should have been completed within 120 days means in any case, by March 2024. It is also claimed that the suspension has exceeded the period of four months and that being so, the petitioner is entitled for reinstatement.

7. The aforesaid claim is resisted by the learned counsel for the Management on the ground that the nature of allegation/charge against the petitioner as an teacher by profession is very serious.

8. We have considered the submissions.

9. In response to the Courts query, statement made by the learned counsel for the respondent-Management that in case, if the petitioner appears on 28.10.2024, the inquiry

can be completed within a period of three weeks thereafter is accepted as an undertaking to this Court.

10. In view of above, we deem it appropriate to modify the interim order passed on 17.05.2024. We permit the respondent Management to continue with the inquiry.

11. Having regard to the provisions of 35(2) and 37(f) of MEPS Rules, the writ petition stands disposed of with an clarification that during the period later than 120 days of commencement of inquiry, the petitioner shall be entitled for entire subsistence allowance, which shall be paid on regular basis.

12. Let the arrears, if any, be released expeditiously.

JUDGE

JUDGE