



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

962 WRIT PETITION NO. 7596 OF 2024

DEELIP DIGAMBAR SHINDE

VERSUS

**NEW BHARAT SHIKSHAN PRASARAK MANDAL THROUGH ITS SECRETARY AND
OTHERS**

...

Advocate for the Petitioner : Mr. Patil-Indrale Anand Vinayakrao

AGP for Respondent 3 : Mr. K.N. Lokhande

Advocate for Respondents 2 : Mr. V.D. Gunale

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CORAM : ARUN R. PEDNEKER, J.

Dated : October 04, 2025

PER COURT :-

1. Heard the learned counsel for the parties.
2. The petitioner challenges the judgment and order dated 27.2.2024 passed by the learned Presiding Officer, School Tribunal, Latur in Appeal No. 9/2021 only to the extent of clause (6) of the impugned order, which is reproduced as under :-

"6. The respondents are directed to pay subsistence allowance to the appellant from the date of joining till the completion of enquiry subject to conditions as per the M.E.P.S. Act-1977 & Rules-1981 in that respect."

3. Facts in brief are that petitioner was promoted to the post of Head Master in the respondent institution and he was dismissed from service after holding an inquiry on 12.2.2021. Thereafter, the petitioner challenged his termination order before the School Tribunal, Latur. The School Tribunal by order dated 27.2.2024 partly allowed the appeal and quashed the termination order dated 22.2.2021 and directed the respondents management to conduct a fresh inquiry of the petitioner as per the M.E.P.S. Act-1977 & Rules-1981 from initial stage i.e. from the statement of allegations. It was directed that the inquiry to be completed within four months from the date of starting inquiry (excluding period of holidays and vacation, if the petitioner not consented for meeting on holiday or vacation). It was also directed that

respondent Nos. 1 to 2 to reinstate the petitioner without backwages for the purpose of inquiry. It was further directed that the petitioner to remain suspended during the period of inquiry. The respondents were further directed to pay subsistence allowance to the petitioner from the date of joining till the completion of enquiry subject to conditions as per the M.E.P.S. Act-1977 & Rules-1981 in that respect.

4. The learned counsel for the petitioner submits that it is well settled that when a person is under suspension, subsistence allowance is required to be paid to such person and the petitioner is only seeking substance allowance from the date of termination which has been quashed and set aside by the learned School Tribunal. The learned counsel further submits that the petitioner is not seeking even further allowance from the date of suspension till the date of termination and since that is not the issue before the school tribunal and he does not press that prayer.

5. The learned counsel submits that the Tribunal ought to have directed the respondents to pay the subsistence allowance to the petitioner in terms of Rule 34 of the MEPS Act i.e. from 22.2.2021 i.e. from the date of termination till the completion of fresh inquiry. The learned counsel has also relied upon the judgment and order of this Court in the case of **Venkatrao Deshmukh Shilwanikar and Anr. Vs. Sharad Shridharrao Deshmukh and Ors.** reported in **2016 (4) Bom. C.R. 442.**

6. Per contra, the learned counsel appearing for the respondents submits that petitioner has not filed affidavit before the Tribunal that he was not working during the period he was out of service and that the respondents have suspended the petitioner after taking due approval from the Education Officer and as such, petitioner is not entitled for any subsistence allowance. The learned counsel submits that in the event the petitioner succeeds in this writ petition, he would be entitled for all benefits. The learned counsel relied on the judgment of **Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya and Ors.** reported in **(2013) 10 SCC 324** and submits that it was mandatory for the employee to file affidavit that he was not

employed in the interregnum.

7. Having considered the rival submissions, it appears that the termination order dated 22.2.2021 passed against the petitioner is quashed and set aside by the School Tribunal vide order dated 27.2.2024 and respondents are directed to conduct fresh inquiry and as such, considering Rule 34 of the MEPS Rules, the petitioner becomes entitled for substance allowance. The present issue is squarely covered by the judgment of this Court in the case of **Venkatrao Deshmukh Shilwanikar and Anr.** cited supra. In para 35 of the judgment, this Court has held as under :-

“35. In the light of the above, the petition filed by the management is partly allowed. Clause 4 of the impugned order granting wages to the employee during the period of the enquiry is quashed and set aside. The employee shall be treated as being under suspension from 9.4.2009 and management will be under an obligation to pay him suspension allowance as per Rule 34 till the final decision that would be arrived at by the management in the light of Rule 37. Said suspension allowance will, therefore, have to be paid to the employee every month.”

8. Since the issue is already covered by the judgment of this Court in the case of **Venkatrao Deshmukh Shilwanikar and Anr.**, cited supra. As regards the judgment cited by the learned counsel for the respondents is concerned i.e. **Deepali Gundu Surwase** cited supra, the same relates to the backwages by which the termination order against the employee is set aside. However, that issue is not before this Court in this case and the issue before this Court is in respect of entitlement of the petitioner employee to get the subsistence allowance in terms of Rule 34 of the MEPS Rules.

9. In view of the above, the petitioner would be entitled to the suspension allowance from the date of his termination till the completion of inquiry. Considering the above, clause (6) of the impugned order dated 27.2.2024 passed by the learned Presiding Officer, School Tribunal, Latur in Appeal No. 9/2021 would stand modified to the extent that the petitioner shall be entitled to the substance allowance from the date of his termination of service i.e. from 22.2.2021 till the conclusion of fresh inquiry. It is the responsibility of the respondents to make payment of the subsistence

allowance to the petitioner so as to enable him to defend the fresh inquiry proceedings, atleast for part payments.

10. The respondents are at liberty to submit the bills of the petitioner in respect of the substance allowance qua the aforesaid period.

11. The learned counsel for the petitioner undertakes that the petitioner would cooperate in conducting the fresh inquiry and would not seek unnecessary adjournment.

12. The writ petition is disposed of accordingly.

(ARUN R. PEDNEKER, J.)

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