



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

**CIVIL APPLICATION NO. 10069 OF 2024
IN
REVIEW APPLICATION STAMP NO. 23744 OF 2024
IN
WRIT PETITION NO. 12561 OF 2022
WITH
REVIEW APPLICATION STAMP NO. 23744 OF 2024
IN
WRIT PETITION NO. 12561 OF 2022**

Ravsaheb Narayan Sangale

.. Applicant

Versus

The President / Secretary,
Dhanvantary Medical & Education
Foundation and others

.. Respondents

Shri S. S. Jadhavar, Advocate for the Applicant.
Shri A. B. Gatne, Advocate for the Respondent Nos. 1 and 2.
Shri B. A. Shinde, A.G.P. for the Respondent No. 3.

CORAM : SHAILESH P. BRAHME, J.

**CLOSED FOR ORDER ON : 09.10.2025
ORDER PRONOUNCED ON : 17.10.2025**

FINAL ORDER :

. Heard both sides.

2. The delay of 86 days caused in preferring review petition stands condoned for the reasons stated in the application. The civil application for condonation of delay is allowed and stands

disposed of. Office is directed to register the review petition.

3. As indicated earlier, I have heard the review petition on merits as well.

4. The judgment and order dated 03.05.2024 passed in Writ Petition No. 7482 of 2022 and Writ Petition No. 12561 of 2022 to the extent the directions stated in operative part of clauses (d) and (e) of para No. 34 of the judgment is sought to be reviewed. The remaining text of the judgment is not objected. The grievance is that operative part pertaining to payment of suspension allowance is being misinterpreted by the management in depriving the petitioner from back-wages as well as suspension allowance. Hence those directions are sought to be recalled or modified.

5. Learned counsel Mr. Jadhavar for the review petitioner submits that after reinstatement he was suspended vide letter dated 21.05.2024. He was neither paid back-wages, nor paid suspension allowance from earlier suspension dated 03.09.2016. It is submitted that the stand taken by the respondent – management, which is evident from letter dated 05.07.2024 is apparently illegal and against the law laid down by the Coordinate Bench of this Court in the matters of Nagar Yuvak Shikshan Sanstha Vs. Sanjay Vidyasagar Soni reported in *2020(1) ABR 332* and *Vijaysingh Bhaidas Patil Vs. Dhanorkar Adhunik Gram* reported in *2016(3) Mh.L.J. 813*. It is submitted that he is denied monetary benefits despite the fault committed by the management in

conducting the inquiry. It is submitted that apparent error has been committed in denying the suspension allowance from the previous order of suspension.

6. Per contra, Mr. A. B. Gatne, learned counsel for the respondent Nos. 1 and 2 submits that no grounds are made out to invoke the powers of review under Order XLVII read with Sec. 114 of the Code of Civil Procedure. It is submitted that view taken by this Court cannot be substituted. It is impermissible to rewrite the judgment or to correct the errors, albeit, no error is committed. It is submitted that petitioner remained absent and he was required to be suspended. It is further submitted that claim of the petitioner is unsustainable. Reliance is placed on various judgments.

7. Following operative part, especially clause Nos. (d) and (e) are sought to be reviewed :

(d) If Petitioners/Management decide to conduct *denovo* enquiry, then they shall pass order of suspension and shall pay subsistence allowance to respondent no. 1 which shall be condition precedent for conducting further enquiry.

(e) The petitioners/Management shall take decision of conducting *denovo* enquiry within a period of three weeks failing which they shall be bound by directions of reinstatement and back-wages.

8. During the course of argument learned counsel Mr. Jadhavar submitted that petitioner is entitled to 75% of the back-wages and in that case there is no question of his

suspension. There is no merit in this submission, because reinstatement and payment of back-wages is admissible to the petitioner in case management does not decide to conduct *denovo* inquiry. In the present case in pursuance of the judgment sought to be reviewed, petitioner was reinstated on 17.05.2024. The respondent – management decided to conduct *denovo* enquiry and he was suspended on 21.05.2024. Even the inquiry has also been conducted, which culminated into termination.

9. As the management resorted to conduct *denovo* enquiry, presently the question is about payment of suspension allowance to the petitioner. He is entitled to suspension allowance as per clause (d) of the order under review. Due to the subsequent conduct of the management, the petitioner is claiming suspension allowance from his earlier termination effected on 03.09.2016. The correspondence made by him to the management and the letter dated 05.07.2024 issued to him by the management can be subjected to objective scrutiny. Due to the subsequent events, it cannot be said that there is apparent error on the face of the record requiring modification or review of the direction pertaining to the suspension allowance.

10. Petitioner is found to be guilty after *denovo* inquiry and he is terminated. The termination will be examined by the competent forum. It would be open for the petitioner to agitate his grievance or entitlement to the back-wages as well as suspension allowance. The same cannot be decided under the garb of review. I do not find that any error apparent on the face

of record is disclosed. It would require full fledged inquiry to decide the entitlement of the petitioner for suspension allowance from any earlier period.

11. Learned counsel Mr. A. B. Gatne for the respondents has rightly adverted my attention to the scope of review by referring to the latest judgment of the Apex Court in the case of Malleeswari Vs. K. Suguna and another reported in *2025 SCC OnLine SC 1927*. In view of parameters laid down in para Nos. 15 to 18, I find that no case is made out of any error apparent on face of record. Even if it is presumed that the direction in respect of payment of suspension allowance is erroneous, that would not be a ground to entertain the review. It would amount to substitution of view, which is impermissible.

12. Further reference is made to the judgment of the Supreme Court in the matter of Perry Kansgra Vs. Smriti Madan Kansagra reported in *(2019) 20 SCC 753*, which inter alia relied upon various judgments to expound the scope of review. Considering those guidelines, I find that the case in hand does not involve any mistake or an error apparent on the face of record or any sufficient reasons.

13. Learned counsel for the petitioner has relied on the judgment of the Coordinate Bench of this Court in the matter of Nagar Yuvak Shikshan Sanstha Vs. Sanjay Vidyasagar Soni (supra). I do not find any binding precedent in respect of payment of suspension allowance in case of *denovo* inquiry. The judgment will be of no

assistance to the petitioner. Further reliance is placed on the judgment of the Coordinate Bench ***Vijaysingh Bhaidas Patil Vs. Dhanorkar Adhunik Gram*** (supra). I have considered para Nos. 11 and 12 of the judgment. It does not lay down any proposition as to from which date the suspension allowance is payable in case management proposes to undertake *denovo* inquiry.

14. Mr. A. B. Gatane, learned counsel has relied on the judgment of the Apex Court in the matter of **U. P. State Textile Corporation Ltd. Vs. P. C. Chaturvedi and others** reported in ***(2005) 8 SCC 211***. Further reliance is also placed on the judgment of the Supreme Court in the matter of **N. Selvaraj Vs. Kumbakonam City Union Bank Ltd. and another** reported in ***(2006) 9 SCC 172***. Both these judgments are distinguishable on facts. I have already observed that entitlement of the petitioner to have back-wages as well as suspension allowance needs adjudication by greater length at appropriate point of time. Therefore, these judgments are also not helpful.

15. For the reasons stated above, I find no substance to entertain the review petition. Review petition is rejected.

[SHAILESH P. BRAHME, J.]

bsb/Oct. 25