

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.524 OF 2025

Jana Seva Samiti & Anr.

....Petitioners

V/S

State of Maharashtra & Ors.

....Respondents

Mr. Shaikh Nasir Masih *for the Petitioners.*

Ms. M.S. Srivastava, AGP *for Respondent Nos.1 to 3 / State.*

Ms. Sanskriti Yagnik i/b Ms. Devyani Kulkarni for Respondent No.4.

CORAM: SANDEEP V. MARNE, J.

DATE : 13 JANUARY 2025.

P.C.:

1. Leave granted to substitute the averments in paragraph 33 of the Petition. Amendment to be carried out forthwith.

2. By the present Petition Petitioner-Management challenges order dated 3 December 2024 passed by Presiding Officer, School Tribunal, Mumbai partly allowing the Appeal preferred by Respondent No.4 and remanding the enquiry to be conducted afresh before the reconstituted enquiry committee. Accordingly the Petitioner-Management has already started conducting fresh enquiry by reconstituting the enquiry committee. Petitioner-Management has also placed Respondent No.4 under suspension in pursuance of leave granted by the School Tribunal.

The only grouse of the Petitioner-Management is that the School Tribunal has directed payment of consequential benefits and full backwages to Respondent No.4 from the date of termination i.e., 18 January 2024.

3. According to Mr. Masih, the learned counsel appearing for Petitioner whenever an enquiry is remanded on account of non-following of principles of natural justice, the employer cannot be directed to bear the burden of backwages and that the issue of backwages can be considered only after fresh findings are recorded in the remanded enquiry.

4. In support he relies upon judgment of the Apex Court in ***U.P. State Textile Corporation Limited vs. P.C. Chaturvedi***, 2005 DGLS (SC) 815.

5. Having gone through the order passed by the School Tribunal it appears that remand of the enquiry is necessitated in the present case on account of the fact that the Petitioner-Management abruptly terminated the enquiry and decided to terminate the services of the Petitioner of Respondent No.4 even though the enquiry proceedings were never taken to its logical end. On account of this action of the Petitioner-Management, the School Tribunal is required to remand the enquiry for being conducted afresh by reconstituted enquiry committee. Since the

enquiry is remanded, and since the same is being conducted afresh to find out whether Respondent No.4 has committed misconduct or not, there is no question of granting backwages or any consequential benefits to Respondent No.4 at this stage. Reinstatement of Respondent No.4 is only for the purpose of restoration of employer employee relationship for limited purpose of conduct of enquiry in the remanded proceedings. Such reinstatement would not entail payment of backwages or consequential benefits. In ordinary circumstances, whenever an enquiry is remanded, for being conducted afresh on account of violation of principles of natural justice in the previous enquiry, the employee is required to be placed under suspension till a fresh enquiry is conducted. In my view, similar course of action deserves to be adopted in the present case as well.

6. I accordingly proceed to pass the following order:

- a) Order dated 3 December 2024 passed by the School Tribunal shall stand modified to the limited extent of setting aside its directions for payment of consequential benefits, continuity of service and backwages consequent to setting aside the termination order dated 18 January 2024.
- b) Instead Respondent No.4 shall be deemed to have been placed under suspension with effect from 18 January 2024 and he shall be entitled to payment of 50% wages

towards subsistence allowances for initial period of 120 days and 75% of wages as subsistence allowance after expiry of period of 120 days. His suspension shall continue till a fresh order is passed based on the findings recorded by the enquiry committee. The Petitioner-Management shall accordingly pay the arrears of subsistence allowance with effect from 18 January 2024 to Respondent No.4 within a period of four weeks from today.

7. With the above directions, the Writ Petition is partly allowed and **disposed of**.

8. Needless to say that Respondent No.4 shall extend all possible co-operation for expeditious conclusion of the enquiry. The School Tribunal has already fixed the time limit of 120 days for completion of the enquiry. Accordingly Respondent No.4 shall not seek unnecessary adjournments in the enquiry and if the enquiry committee finds that the request made by him for adjournment is unnecessary, the enquiry committee shall proceed to reject such request for adjournment and shall further proceed with the enquiry. An endeavour shall be made to complete the enquiry by submitting the report of the enquiry committee on or before 31 March 2025.

(SANDEEP V. MARNE, J.)

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