

Suvarna Mahipati Patil	...	Petitioner
V/s.		
Nanda Namdev Suryawanshi and ...		Respondents
Ors.		

Mr. Narendra V. Bandiwadekar, Sr. Advocate with Vinayak R. Kumbhar, Rajendra Khaire, Aniket Phapale I.by Ashwini N. Bandiwadekar, for the respondent no. 1.

DATE : 7TH APRIL 2025.

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PC:

1. Heard learned counsel for the parties.
2. The petitioner – plaintiff assails the legality, proprietary and correctness of a judgment and order dated 4th February 2025 passed by the learned District Judge, Kolhapur whereby the appeal preferred by respondent no. 1- original defendant no. 1, came to be allowed by setting aside an order passed by the learned Civil Judge, Peth-Vadgaon in RCS No. 132 of 2020, thereby restraining the defendant no. 1 from initiating disciplinary proceedings against the plaintiff, till the final decision of the suit.

3. The petitioner came to be appointed as a teacher in Pruthvi Madhyamik Vidyalay, Vathar Turfe Vadgaon, Tal-Hatkanangale which is run by Shri Sharad Shikshan Prasarak Mandal, Vathar Turfe, Vangaon. Alleging misconduct on 22nd January 2020, the respondent no. 1 issued a show cause notice to the petitioner. On 3rd June 2020, the respondent no. 1 served a suspension order on the petitioner.

4. The petitioner instituted Regular Civil Suit No. 132 of 2020 assailing the legality and validity of the disciplinary proceedings initiated against her. The plaintiff sought a declaration that the charge-sheet and the disciplinary proceedings, being conducted pursuant to the said charge-sheet, were illegal and in violation of the governing Rules and the order of suspension dated 16th November 2021 was illegal, arbitrary, void and *ab initio* and did not bind the plaintiff.

5. In the said suit, the plaintiff filed an application for temporary injunction seeking, *inter alia*, an injunction to restrain the defendant no. 1 from proceeding with the disciplinary enquiry pursuant to the charge-sheet served on the plaintiff and stay the execution and operation of the suspension order dated 16th November 2021.

6. By an order dated 1st November 2023, the learned Civil Judge was persuaded to partly allow the application and restrain the defendant no. 1 from initiating disciplinary proceedings against the plaintiff till the final decision of the suit.

7. Being aggrieved, the respondent no. 1 challenged the said

order before the District Court, Kolhapur. By the impugned order the learned District Judge, was persuaded to set aside the order of injunction passed by the trial Court. By a further order dated 4th February 2025, the learned District Judge, however, directed that though the defendant no. 1 was entitled to proceed with the enquiry, the result of the such enquiry shall not be implemented for a period of two months from the date of the said order.

9. It would be contextually relevant to note that in the intervening period, the Education Officer, Zilla Parishad, Kolhapur had directed the Superintendent, Provide Funds, Kolahpur to pay the salary to the plaintiff as it was reported that the plaintiff was rendering her services as a teacher. The Trust has challenged the said directions by preferring a Petition, being Writ Petition No. 9337 of 2024. In the said petition, by an order dated 9th July 2024, a Division Bench of this Court, while declining to stay the payment of salary to the plaintiff, directed that the amount that is being paid to the plaintiff will be treated and considered as payment of subsistence allowance, subject to further orders, adjustment etc.,

10. The situation with thus obtains is that the despite the order of suspension dated 16th November 2021, the plaintiff – petitioner has been rendering services as a teacher and has also been paid the salary, subject to the order passed by the Division Bench in Writ Petition No. 9337 of 2024.

11. The principle challenge in the suit appears to be the authority of the defendant no. 1 to initiate the disciplinary enquiry. The learned District Judge was of the view that, the Trial Court could not

have restrained the employer from conducting enquiry and that the petitioner was entitled to raise all the objections to the enquiry, after the conclusion of the enquiry.

12. This Court, in exercise of the writ jurisdiction, does not find any justifiable reason to interfere with the order of the Appellate Court as, on first principles, an employer cannot be restrained from holding disciplinary enquiry.

13. When the Court expressed its disinclination to entertain the petition, Mr. Bhangoji, learned counsel for the petitioner, on instructions, submitted that disciplinary proceedings instituted against the petitioner may be continued, without prejudice to the rights and contentions of the petitioner to raise all objections to the legality and validity of the institution of the enquiry, and, in the meanwhile, the petitioner be permitted to work and salary be paid to the petitioner, as ordered by the Division Bench.

14. Mr. Bandiwadkar, learned Senior counsel for the respondent no. 1, submits that respondent no. 1 is not averse to the aforesaid arrangement.

15. In view of the aforesaid submissions, the petition stands disposed with liberty to the respondent no. 1 to continue and conclude the disciplinary enquiry against the petitioner-plaintiff in accordance with rule.

16. The petitioner – plaintiff shall, however, be allowed to continue to work as a teacher and the remuneration be paid to the petitioner-plaintiff as and by way of subsistence allowance as

indicated in the order of the Division Bench, till the conclusion of the said enquiry.

17. The petitioner-plaintiff shall be entitled to raise all the objections to the said enquiry, including legality and validity of the institution of the said enquiry and authority of the respondent no. 1 to institute the said enquiry.

(N.J. JAMADAR, J)