IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

24 WRIT PETITION NO. 1480 OF 2017

Nita Prabhakar Lonikar
VERSUS
The State of Maharashtra And Others
...
Mr. Mujeebuddin M. Chaudhari, Advocate for the Petitioner.
Mr. N. S. Tekale, AGP for Respondent Nos.1 & 2.
Mr. M. H. Bedre h/f. Mr. Deepak K. Rajput, Advocate for Respondent Nos.3 & 4.
Mr. Vitthal G. Salgare, Advocate for Respondent Nos.5 to 7.
...

WITH
WRIT PETITION NO. 14967 OF 2023

Nita Prabhakar Lonikar
VERSUS
The State of Maharashtra Through Its Principal Secretary And Others
...
Mr. Mujeebuddin M. Chaudhari, Advocate for the Petitioner.
Mr. N. S. Tekale, AGP for Respondent Nos.1 & 2.
Mr. Vinod M. Vibhute, Advocate for Respondent No.3.
...

CORAM : KISHORE C. SANT &
JITENDRA JAIN, JJ.

DATE : 19th NOVEMBER, 2026

PER COURT :

1. Heard learned advocate for the petitioner and learned advocate for the management.

2. The petitioner was suspended by the respondent – Management for holding an enquiry. After holding an enquiry, the petitioner came to be terminated from service. The petitioner challenged the order of

termination before the School Tribunal. The School Tribunal by its judgment and order dated 09.07.2019 set aside the order of termination and directed reinstatement of the petitioner with 50% back-wages.

3. The grievance of the petitioner in the present petition is that, in view of the order of reinstatement passed by the School Tribunal upon setting aside the order of termination, the Management is liable to pay full salary for the period during which the petitioner remained under suspension. Reliance is placed on Rule 35 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (MEPS Rules).

4. Rule 35 of the MEPS Rules reads as under :-

> *"35. Conditions of suspension.*
>
> *(1)In cases where the Management desires to suspend an employee, he shall be suspended only with the prior approval of the appropriate authority mentioned in rule 33.*
>
> *(2)The period of suspension shall not exceed four months except with the prior permission of such appropriate authority.*
>
> *(3)In case where the employee is suspended with prior approval, he shall be paid subsistence allowance under the scheme of payment through Co-operative Banks for a period of four months only and thereafter, the payment shall be made by the Management concerned.*
>
> *(4)In case where the employee is suspended by the Management without obtaining prior approval of the appropriate authority as aforesaid, the payment of subsistence allowance even during the first four months of suspension and for further period thereafter till the completion of inquiry shall be made by the Management itself.*
>
> *(5)The subsistence allowance shall not be withheld except in cases of breach of provisions of sub-rule (3) or (4) of rule 33."*

5. In the present case, it is an admitted position that the Management had sought permission from the Education Officer to suspend the petitioner. However, such permission was refused. In view of the provisions of Rule 35(4) of the MEPS Rules, the responsibility of paying subsistence allowance to the petitioner during the period of suspension rested with the Management.

6. Rule 34(4) of the MEPS Rules reads as under :-

> *"34. Payment of subsistence allowance.*
> *(1) … … …*
> *(2) … … …*
> *(3) … … …*
> *(4) When an employee who has been suspended is reinstated, the authority competent to order the reinstatement shall consider and make a specific order-*
> *(a)regarding the pay and allowances to be paid to the employee for the period of his absence from duty, and*
> *(b)regarding the said period being treated as a period spent on duty."*

7. A conjoint reading of Rules 34 and 35 of the MEPS Rules indicates that the Management is required to determine the pay and allowances payable to an employee upon reinstatement, in accordance with Rule 34(4). The competent authority is also required to pass a specific order as to whether the period of suspension is to be treated as a period spent on duty. Further, Rule 34 contains provisions governing the rate of subsistence allowance payable where the period of suspension exceeds four months including the circumstances in which the rate may be increased or decreased.

8. In the present case, it appears that the Management has not yet taken any specific decision regarding the pay and allowances payable to the petitioner for the period of suspension, nor has it passed an appropriate order regarding the treatment of the said period. In these circumstances, the petitions can be disposed of by directing the Management to consider the claim of the petitioner and pass an appropriate speaking order in accordance with Rule 34(4) read with the relevant provisions of Rule 34 and Rule 35 of the MEPS Rules, within a period of four weeks from today.

9. With this, both these petitions stand disposed off.

(JITENDRA JAIN, J.) (KISHORE C. SANT, J.)