

(1990) 02 MAD CK 0004
In the Madras High Court

The Correspondent, Seaforth Aided Primary School	APPELLANT
Vs	
The Chief Educational Officer and Others	RESPONDENT

Date of Decision : 02-02-1990

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 14

Citation : (1990) 1 MLJ 437

Hon'ble Judges : Srinivasan, J

Bench : Division Bench

Judgement

Srinivasan, J.—The first two Writ Petitions are filed by the Correspondent of Seafordi Aided Primary School, Seaforth Estate, Nilgiris

District. The third Writ Petition is by the Headmaster of the School who is impleaded as the third respondent in W.P.No. 15734 of 1989. The

respondents in the first Writ Petition are the Chief Educational Officer, Nilgiris District, the District Educational Officer, Nilgiris District, and the

Deputy Inspector of Schools Gudalur, Nilgiris District. The respondents in the second writ petition are the Government of Tamil Nadu represented

by Secretary, Education Department, the Chief Educational Officer, Nilgiris District and the Headmaster of the School. In the third Writ Petition,

the Government, the Chief Educational Officer the District Educational Officer and the Secretary to the management and the Correspondent of the

school are the four respondents.

W.P.No. 10861 of 1987: The prayer in this writ petition by the management of the school is for issue of Mandamus directing respondents 1 and 2

to release the monthly staff grant and the annual maintenance grant to the petitioner school for the period November, 1983 to August, 1987 and

continue payment of the said grants to the school in future. The release of the grant was stopped on the ground that the management of the school

was violating the provisions of the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 and the rules framed thereunder. In N.K.No.

1207 of 1984 dated 24.2.1984, the Deputy Inspector of Schools Gudalur had sent a communication to the Secretary of the School setting out

certain defects in the management of the school and calling upon the latter to rectify the defects and act in accordance with the instructions issued

by the Department. There was also a threat of withdrawal of recognition in the event of the failure on the part of the management to comply with

the directions issued by the Department.

2. In the affidavit filed in support of the writ petition, it was alleged by the Management that the withholding of the grant coincided with the

suspension of the Headmaster of the School by the management on 16.11.1983 pending enquiry into acts of misconduct. According to the

management the main reason for stopping the grant was the refusal on the part of the department to approve of the appointment of one Mrs.

Manassay as acting Headmistress in the place of the suspended Headmaster. It was also alleged that the management accepted the suggestion

made by the department and appointed Mrs. Nirmaladevi (Secondary Grade Teacher working in the school) as acting Head-mistress and

complied with the directions given by the department. According to the management, though there was oral assurance of release of grant, the

respondents failed to make payments which necessitated filing of the writ petition. Though the writ petition was served on the respondents in

December, 1987, no counter affidavit has been filed by any of them. The only argument advanced by learned Additional Government Pleader at

the time of hearing was that the petitioner having disobeyed the instructions given by the Department and having failed to act in accordance with the

provisions of the Act and the rules, is not entitled to pray for a writ directing the release of grant.

3. In view of the clear position in law, it is not necessary to consider the factual question whether the petitioner is guilty of violation of any of the

provisions of the statute or the rules framed thereunder. The law laid down by Sathiadev, J. in P.A.K. Palanisamy High School Vs. The Joint

Director of School Education (Secondary) and Appellate Authority, under Section 23 of the Tamil Nadu Recognised Private Schools

(Regulations) and Another, is that u/s 14 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, the Government may withhold

permanently or for any specified period, the whole or part of any grant in respect of any private school under the circumstances set out therein; but

before withholding the grant, the Government shall give the educational agency an opportunity of making its representations. The learned Judge has

ruled that it is only the Government which could withhold any portion of the grant and that could be done only after issue of a notice u/s 14(3) of

the Act and that the power of the Government cannot be abdicated in favour of its Subordinates, as the Act does not contemplate such surrender

of powers. In the present case, the requirements u/s 14(3) of the Act are not satisfied. There has been no notice by the Government under the

Section giving an opportunity to the management of the school to make its representations. Hence, the respondents have failed to do their duty

enjoined by law in not releasing the grant payable to the petitioner.

4. Consequently, the prayer in the Writ petition has to be granted and the Writ Petition is allowed accordingly. There will be a mandamus directing

the respondents 1 and 2 to release the monthly staff grant and annual maintenance grant payable to the petitioner school for the period from

November, 1983 upto date and for future periods. The respondents are directed to pay the entire amount due as on date to the petitioner within

six weeks from this date.

5. W.P.No. 15134 of 1989: The prayer in this petition to call for the records in R.C.No. 494083 of 1983 on the file of the second respondent,

quash the order dated 30.1.1985 made by him and direct the first respondent to release the grant by way of salary paid by the petitioner for the

entire period of suspension pending enquiry and also grant approval for the dismissal of the third respondent, on the basis of the findings of the

Enquiry Officer and pass such further orders as this Court may deem fit. The relevant facts are shortly these: The third respondent in the petition

was working as the Headmaster of the school. On 6-10-1983 the Headmaster misbehaved towards the Lady Organiser of the Mid-day Meal

Scheme by name Dhanalakshmi, who lodged a complaint with the President of

the Parent-Teachers Association of the School on 7.10.1983. That complaint along with a complaint made by Tmt. Janaki, cook of the Sathunavu Scheme of the School was forwarded to the petitioner, who in turn sent them to the Sub Inspector of Police, New Hope police Station. There was an enquiry by the Revenue Divisional Officer, who recommended action being taken against the Headmaster. There was an agitation by the parents of the students that until the Headmaster was removed from the school they would not send their wards to the school for education. On 10.11.1983, a Charge-memo., was issued to the Headmaster in which three charges were framed against him. The first charge related to the molesting and trying to rape Selvi Dhanalakshmi, Organiser of Sathunavu Scheme of the School on 6-10-1983 around noon. The second charge pertained to his not giving Sathunavu to the Children of one K.P. Moideen Kutty on 10.7.1983 and his sending them away from the school. It was also part of the charge that the children were asked to drink drainage water and when questioned by the father of the children he assaulted the father. The third charge was that on 11-10-1982 Sathunavu was refused to the child of one Prema and the child was made to stand in front of the other children and was beaten. It was also alleged that on 12-10-1982 when the father of the child viz., Ayyappan questioned the Headmaster regarding his acts, the latter and his wife Nirmaladevi removed their chappals and beat Ayyappan.

6. On 25.11.1983, the Headmaster gave an explanation in writing denying the charges levelled against him. The petitioner appointed one K.R.

Ramakrishnan, Advocate, Ootacamund to be the Enquiry Officer. When notice was sent to the Headmaster for enquiry, he refused to appear for

the enquiry challenging the competence of the enquiry officer to hold the enquiry. The Enquiry Officer proceeded with the enquiry in the absence of

the Headmaster and five witnesses were examined. Based on their evidence, the Enquiry Officer submitted his finding holding that the Headmaster

was guilty of molesting Selvi Dhanalakshmi, not giving Sathunavu to the children of Moideen Kutty on 10.7.83 and ill treating the son of Mr.

Ayyappan on 11.10.1982. On receipt of the report of the Enquiry Officer, the School Committee decided to terminate the services of the

Headmaster in its meeting held on 23.3.1981 and applied to the District

Educational Officer seeking his approval for the dismissal of the Headmaster. The Headmaster had been placed under suspension from 16.11.1983. The District Educational Officer passed orders on 3.7.1984 rejecting the application for approval. The petitioner filed an appeal to the second respondent, who by order dated 30.1.1985 dismissed the same.

7. The petitioner preferred a revision petition to the Government and it is still pending with the Government. The petitioner filed W.P.No. 294 of 1987, which was disposed of by this Court on 12.1.1987 directing, the Government to dispose of the petitioner's revision petition on or before 30.4.1987 after affording the petitioner an opportunity to put forth his case. In spite of the said direction the first respondent has not disposed of the revision petition filed by the petitioner. Hence, the petitioner filed Contempt Application No. 287 of 1987 which came up for orders on 6.11.1987. This Court directed the petitioner to approach the first respondent for appropriate relief as per the orders in W.P.No. 294 of 1987. On 12.7.1988 the petitioner's counsel addressed a communication to the first respondent to post the revision petition for an early hearing. There was no response from the first respondent. On 2.8.1988, the petitioner's counsel called on the first respondent and made a representation seeking an early disposal of the revision petition. He was assured by the first respondent that the revision petition would be posted for hearing shortly. But, it was not done so. The petitioner's counsel sent a communication on 5-7-1989 requesting the first respondent to dispose of the revision petition. The communication was acknowledged by the first respondent on 7.7.1989, but the revision petition has not been disposed of-Hence the petitioner is obliged to move this Court for a certiorified "Mandamus to call for the records in the appeal filed before the second respondent and quash the order made by him in the said appeal on 30.1.1985. The other prayers in the writ petition are only consequential according to the petitioner.

8. The third respondent has filed a counter affidavit. It is stated therein that there is no parent teacher association as alleged in the affidavit of the petitioner and there was no complaint by such association. The third respondent is not aware of any agitation by the parents of the students studying in the school. According to him, some of the friends of the manager of the estate attempted to create trouble in front of the school and

made false allegations against him. It is the case of the third respondent that he has been illegally kept under suspension for a period of six years

and above even though the maximum period u/s 22 of the Tamil Nadu Recognised Private Schools (Regulation) Act for which a teacher or a

member of the staff could be kept under suspension is only four months. According to him, the appointment of an advocate as Enquiry Officer is

against the provisions of the rules and the entire enquiry is null and void. There was no incident as alleged in charge No. 1 and the said

Dhanalakshmi herself had written a letter dated 13.10.1983 to the Government authorities that her complaint against him was not true and that she

was made to give such a complaint by certain people closely connected with the Estate. The other charges made against him are also false. It is

stated further that he is being paid only Rs. 747 by way of subsistence allowance whereas he will be entitled to a sum of Rs. 2267 per month by

way of emoluments. A Division Bench of this Court has in W.A.No. 183 of 1984 by its order dated 10.1.1984 directed the petitioner to pay the

full salary and emoluments for the period of suspension beyond the period of two months and yet the petitions has failed to comply with the said

direction. Hence third respondent has filed contempt application No. 309 of 1986 and the same is pending. The order of the second respondent

dated 30.1.1985 is passed in accordance with law and there is no merit in the writ petition.

9. The learned Additional Government Pleader raised an objection that when admittedly the revision petition filed by the petitioner is pending

before the Government, the Writ Petition to quash the order dated 30.1.1985 made by the second respondent is not sustainable. There is no

explanation on the part of the Government for not having disposed of the revision petition filed by the petitioner in spite of express directions by this

Court. Having regard to the fact that a period of nearly five years has elapsed since the passing of the order by the second respondent, I am of the

view that the alternative remedy availed by the petitioner has proved to be only inefficacious but also dilatory and has failed to grant relief to the

petitioner. Hence, the pendency of the revision petition before the Government is not a bar to the exercise of the extra-ordinary jurisdiction by this

Court under Article 226 of the Constitution of India, I propose to consider the merits of the case with reference to the impugned order passed by

the second respondent and decide whether it requires to be quashed or not.

10. One of the contentions put forward by the Headmaster is that the formation of the School Committee is itself not in accordance with law and

the decision taken by the Committee to terminate his services is illegal, null and void. It is his contention that during the relevant period, Smt.

Nirmala Devi was the Acting Headmistress and she had not taken part in the meeting held on 23.3.1988 in which the decision to terminate the

services of the third respondent is said to have been taken., It is no doubt true that the educational authorities did not approve of the appointment

of Mrs. Manaassay as Acting Headmistress in the place of the suspended Headmaster on the ground that she was not qualified therefore and

suggested the appointment of Smt. Nirmala Devi as Acting Headmistress. In fact the suggestion of the Department was accepted by the School

Management, later in 1985, and an order was passed admittedly by the petitioner appointing Smt. Nirmala Devi as the Acting Headmistress.

Though Mrs. Manassay was stated to be not qualified to be the Acting Headmistress, she was discharging the functions of the Headmaster as a

matter of fact. It is quite possible to say that she should be deemed to be the "Headmaster" for the purpose of Rule 14(2)(c) of the Tamil Nadu

Recognised Private Schools (Regulation) Rules, 1974. However, under the provisions of Section 22(3) of the Tamil Nadu Recognised Private

Schools (Regulation) Act, 1973, no suspension shall remain in force for more than a period of two months from the date of suspension. In the

present case, the Headmaster was suspended on 16.11.83. The enquiry against him was not completed within a period of two months; nor was

there any extension of the suspension for a further period of two months as provided in the said section. Hence, at the end of two months from

16.11.1983, i.e. on 16.1.1984, the Headmaster is deemed to have been restored to his position u/s 22 (3)(b) of the said Act. It is a statutory

fiction by virtue of which the third respondent in the writ petition was restored to his position as Headmaster. Hence, from 16.1.1984 any meeting

held without notice to the third respondent will be invalid, as it is a meeting said to have been held on 23.3.1984 cannot be said to a valid one and

the resolution passed therein is not one in accordance with law.

11. However, it is not necessary for me to rest my conclusion on that

circumstances in this case. It is seen from the Charge Memo. That three charges are framed against the Headmaster. The first charge is "molesting and trying to rape Selvi Dhanalakshmi, Organiser of "Sathunavu" of Seaforth Aided Primary, School, Seaforth P.O.," on 6.10.1983 around noon. In support of this charge, the management of the school examined the correspondent of the School, the President of the Parent-Teacher Association and Selvi Dhanalakshmi herself, as M.Ws.1 to 3 M.Ws.1 and 2 had no personal knowledge as to what happened on 6.10.1983 as the complaint is said to have been made by M.W.3. to M.W.2 on 7.10.1983, a day after the alleged incident. It is only thereafter, M.W.1 is said to have been informed by M.W.2. In the letter written by M.W.3 to M.W.2, on 7.10.1983, it is stated that the Headmaster, entered the store room in which she was working, bolted the door and catching hold of her hands told her "I will say one thing will you listen?" and that she shout immediately when the Ayah working there rushed into the room after knocking the door. According to that letter, the Headmaster immediately left her hands and ran away. She claimed to have informed the Deputy Inspector of Schools immediately thereafter. In her deposition she stated as follows:

...On 6.10.1983 I was attending to my work in the stock room. After the fore-noon sessions, the children were getting ready for the mid-day meals and they were washing their plates. There are three Malayalam teachers in the school who teach the children from one big hall. Two of the teachers, one Nirmala Devi and one Madan Mohan had left the school to their houses for lunch. It was around 1.30 P.M. I had not bolted the door from within the stock room. Any one can come in. The Headmaster Thir S. Ramachandran Nair entered my stock room, bolted the door from within and caught hold of my hands. He told me that he would tell me something which I should not refuse. I shouted. Helper Janaki pushed open the door which gave way and came in. In his hurry, the Headmaster had evidently not bolted the door properly with the result it gave way when it was pushed fast by Janaki. The Headmaster ran away through the other door outside.

12. "Thus, there is a clear difference version between that put forward in her earlier letter addressed to M.W.2 and the deposition. While in the letter she stated that he wanted to know whether she would listen to what he

had to say, in the deposition she asserted that he said that she should not refuse what he would say. Even brushing aside that discrepancy, she had expressly referred to Helper Janaki rushing into the room, though she did not mention the name of the Ayah in the letter dated 7.10.1983. The said Janaki has not been examined by the Management. She will be the most competent person to speak about the incident as she is said to have rushed into the room immediately on the shouting of M.W.3. Her evidence would certainly have constituted part of *res gestae* and in the context she should have seen the Headmaster holding the hands of M.W.3 and running away from the room on seeing her. There is no explanation as to why she was not examined by the Management as a witness. There is yet another significant circumstances glaring in this case. M.W.3 had herself written a letter on 13.10.1983 to the Deputy Inspector of Schools and other authorities, marked as Ex.P.9 in which she had stated that no incident occurred on 6.10.1983 as alleged by her in her earlier complaint and that she was pressurised by certain people to give such a complaint against the Headmaster. The enquiry officer brushed aside the said letter on the ground that she had admitted before the Revenue Divisional Officer, Gudalur, that the Headmaster had molested her. The Enquiry Officer did not think it fit to consider whether the uncorroborated; testimony of M.W.3 was sufficient to make out a very serious charge against the Headmaster of molesting her particularly when she had given different versions in writing to the educational authorities. In those circumstances the failure of the management to examine the Helper Janaki assumes great importance. Unfortunately the enquiry officer did not think it fit to advert to this aspect of the matter. When the Enquiry Officer found that the second part of the first charge, namely, attempt to rape, was not proved, it is not known how he found the first part of it. viz., molestation, as proved.

13. The second charge is that on 10.7.1983 the Headmaster did not give "Sathunavu" to the children of one K.P. Moideen Kutty and he had sent them away from the school after they were asked to drink drainage water. It is also part of the charge that when questioned by the father of the children, the Headmaster assaulted him. The only witness in support of this charge is M.W.5 The case of the Headmaster is that 10.7.1983 happened to be a Sunday and he did not attend the school and on the other

hand he was at Gudalur. Even though the version was not substantiated before the Enquiry Officer, the question is whether the charge has been made out. In his deposition, M.W.5 has stated as follows:

The Complaint is dated 10.7.1983 but the occurrence took place earlier.

The Enquiry Officer has not considered as to what exactly is meant by this statement. When the occurrence had taken place prior to 10.7.1983, it

is not known why the complaint was given as if it took place on 10.7.1983. It is not as if the Headmaster is the person who should distribute

"Sathunavu" to children. It may be that he is required by the regulation of the school to be present and supervise the distribution of food. But, the

organiser of "Sathunavu" Scheme as well as the helper should be present when the children assemble for taking food. Nothing has been said as to

who were all present at the time. It is not as if the Headmaster and the children of the school were only present on the occasion though the charge

is that the Headmaster assaulted the father of the children when he was questioned, nothing has been spoken to that effect by M.W.5.

14. The third charge is that "Sathunavu" was refused to a child on 11.10.1982. The complaint is alleged to have been made on 12.10. 1982 by the

father of the child who is examined as M.W.4. Though under the charge allegation is made against the Headmaster and his wife Nirmala Devi

P.W.4 speaks only of Nirmala Devi taking her chappals and attempting to beat him. It is deposed by him that Madhanmohan separated them. The

said Madhanmohan has not been examined. It is not known why no action was taken by the management of the school against the Headmaster or

his wife for more than a year after the alleged incident. In fact, learned Counsel for the Writ Petitioner did not want to place much reliance on the

third charge as the incident is said to have taken place long prior to the date of the charge memo.

15. I am aware that I am not sitting in appeal over the report of the Enquiry Officer. But, the question to be considered by me is whether the

District Educational Officer and the Chief Educational Officer are right in refusing to grant approval of the decision of the School Committee to

terminate the services of the Headmaster. When the basic requirements for establishing serious charges made against the Headmaster are missing

the petitioners cannot seek to have a writ issued by this Court under Article 226

of the Constitution of India. It is well settled that grant of writ is purely discretionary. No party can claim it *ex debito justitiae*. It is not as if every irregularity will be set right by the High Court (vide *P. Ansari*

Doraiswamy Vs. The Union Territory of Pondicherry Administration Locale and Others, , D.8) Even if the orders of the Educational Authorities

suffer from any irregularity or illegality, I refuse to exercise the jurisdiction under Article 226 of the Constitution of India, as it would result in grave

injustice to the Headmaster, (third respondent). I have referred to the evidence recorded at the enquiry only to highlight this aspect of the matter.

Even assuming that there is nothing in law which prevents the Management of the school in appointing an outsider as an Enquiry Officer to hold an

enquiry against a member of teaching staff, there is considerable force in the argument of learned Counsel for the third respondent that the

appointment of the advocate of the management as Enquiry Officer is wholly improper. As pointed out already, the report of the Enquiry Officer is

vitiating by the failure of the Enquiry Officer to consider the relevant and crucial factors.

16. u/s 22(1) of the Tamil Nadu Recognised Private Schools(Regulation) Act, 1973, no teacher or other person employed in any school shall be

dismissed removed or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority.

Under Sub-section (2) when the proposal to dismiss, remove or, reduction in rank or otherwise terminate the appointment of any teacher or other

person employed in any private school is communicated to the competent authority, that authority shall, if it is satisfied that there are adequate and

reasonable grounds for such proposal approve such dismissal, reduction in rank or termination of appointment. Thus under the sub-section, it is

essential that there are adequate reasonable grounds for the proposal.

17. Learned Counsel for the Writ Petitioner contended that in the present case, the reason given by the competent authority for refusing to grant

approval are wholly unsustainable in law and the competent authority has gravely erred in making a sort of independent enquiry in order to find out

whether he should grant the approval or not. In my view, both the contentions are untenable.

18. Learned Counsel invites my attention to that part of the order of the District

Educational officer dated 3.7.1984, wherein a reference is made to the report of the Deputy Inspector of Schools, after making an inspection on 8.10.1983. According to learned Counsel, that is an independent enquiry held by the competent authority which is not warranted by law. On the facts and circumstances of the case, the contention is without any foundation. The date of inspection is 8.10.1983. On 7.10.1983 the persons concerned viz., Dhanalakshmi is claimed to have given complaint to the Deputy Inspector of Schools, Gudalur. It is thereafter, the Inspector makes an inspection of the School and finds that there is a rupture between the school management and the headmaster. It is not as if any separate enquiry was held by the District Educational Officer or the Inspector of Schools after an application for approval of the proposed punishment was made. At any rate, that is not the only ground on which the application is rejoined. There is a reference to the letter dated 13.10.1983 given by Dhanalakshmi to the Deputy Inspector of Schools to the effect that she gave a complaint against the Headmaster on account of pressure by certain leaders in the locality and that her complaint may be rejected. That itself is sufficient to sustain the order of the District Educational Officer in rejecting the application for approval. The District Educational Officer has also expressed the opinion that the enquiry was not in accordance with the rules. The order of the second respondent made on 30.1.1985 confirming that of the District Educational officer cannot be interfered with. Even if all the reasons given by the Second respondent are not acceptable he is right in stating that the taking action against the Headmaster at a later date for the act said to have taken place on an earlier occasion and the non-production of the report of the Revenue Divisional Officer, Gudalur, based on which the Headmaster, was suspended were sufficient reasons to reject the application for approval.

19. In the circumstances, I do not find any justification for quashing the order dated 30-1-1985 made by the second respondent. In my view, the authorities have acted in accordance with law in refusing to grant approval for the proposed punishment against the third respondent. Consequently, the writ petition deserves to be dismissed.

20. W.P.No. 630 of 1990. In this Writ petition, the Headmaster has prayed for a direction to the respondents to reinstate him as Headmaster with

all benefits of arrears of salary and seniority. When this writ (SIC) petition came up for admission, W.P.No. 15734 of 1989 was already in the list.

Hence, I directed this to be heard along with the writ petition and the parties had no objection to such course. Learned Counsel for the School

Management argued this writ petition also.

21. I have already referred to the provisions of Section 22(3) of the Tamil Nadu Recognised Private Schools (Regulation) Act. Under that sub-

section, any order of suspension shall not remain in force for more than a period of two months from the date of suspension. Under the proviso to

Sub-clause (b), the competent authority may, for reasons to be recorded in writing, extend the said period of two months, for a further period of

exceeding two, months if in his opinion, the enquiry could not be completed within the said period of two months for reasons directly attributable to

such teacher or other person. In the present case, there is no extension of the period of suspension by the competent authority. Hence, under Sub-

clause (b) of Clause (3), the period of suspension came to an end with 15.1.1984. By virtue of the statutory fiction, the Headmaster is deemed to

have been restored as such. Consequently, the prayer of the petitioner herein has to be granted in a modified form. There is no necessity for

direction to reinstate, as there is a statutory restoration of the position of the petitioner as Headmaster. What remains to be done is only to declare

that the petitioner is restored to the post of Headmaster from 16.1.1984 and as such he will be entitled to all emoluments as well as the benefit of

seniority.

22. The petitioner had filed W.P.No. 707 of 1984 for quashing the charge memo issued to him. That was dismissed by Sathiadev, J., by order

dated 6.2.1984. He preferred an appeal in W.A.No. 183 of 1984. By its Judgment dated 10.4.1984, the Bench observed that the appeal did not

survive as an order of termination had been passed by then at the conclusion of enquiry proceeding. Strictly speaking, there was no order of

termination, but there was only a resolution by the Committee to terminate his services. At any rate, the Bench took the view that the appeal could

not be sustained after the said decision of the School Committee. However the Bench gave a direction to the School Authorities to pay his salary

and emoluments. The relevant portion of the order of the Bench reads as follows:

However, the learned Counsel for the appellant urged that one of the contentions before the learned Single Judge was and in this appeal is with

regard to the validity of the order of suspension. The learned Counsel appearing for the respondent-educational institution concedes that

irrespective of the controversy about the validity or otherwise of the suspension, order the school authorities shall pay to the petitioner-appellant his

salary and emoluments payable to him for the period of suspension beyond the period of two months till the order of termination takes effect. In

view of this no further orders in the appeal are necessary.

23. In spite of such direction given by the Bench, school management has not paid the full salary due to the petitioner. The School has been paying

only subsistence allowance to the petitioner. The School has no answer to the prayer of the petitioner that he should be paid the entire salary. The

contention that the petitioner is entitled only to subsistence allowance as if the suspension continues to be in force validly, is wholly untenable. In the

circumstances, the writ petition has to be allowed and the reliefs prayed for by the petitioner should be granted. The fourth respondent is directed

to pay the entire arrears of salary due to the petitioner within a period of six weeks from this date.

24. In the result, W.P.No. 10861 of 1987 is allowed. W.P.No. 15734 of 1989 is dismissed. W.P.No. 630 of 1990 is allowed. There will be no

order as to costs in any of the Writ Petitions.