

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

WRIT PETITION NO. 7200 OF 2017

**UDAY
SHIVAJI
JAGTAP**

Digitally
signed by
UDAY
SHIVAJI
JAGTAP
Date:
2026.08.19
14:23:26
+0530

Hemant Prabhakar Hinge
R/at Aundh, Tal. Khatav, Dist. Satara

... Petitioner

Vs.

1. Hon'ble Chairman,
Aund Shikshan Mandal, Aund,
Tal. Khatav, Dist. Satara.

2. Hon'ble Principal Rajashripati Rao
Bhagwantrao Mahavidyalaya,
Aundh, Tal, Khatav, Dist. Satara.

3. The Director Board of College and
University Development Shivaji University
Kolhapur.

4. The Director Higher Education,
Rajaram College Campus,
Kolhapur. Tal. & Dist. Kolhapur

... Respondents

.....
Dr. Uday P. Warunjikar a/w N.B. Kamble, Neha Deshpande i/b Pravartak
Pathak for the Petitioner.

Mr. Narendra V. Bandiwadekar, Senior Advocate (through VC) a/w Sagar
Mane, rushikesh Jagdale, Neha Farakate for Respondent Nos. 1 and 2.

Mr. Sanjay D. Rayrikar, AGP for Respondent – State.

.....

CORAM : SHAILESH P. BRAHME, J.

RESERVED ON : 4th AUGUST, 2026.

PRONOUNCED ON : 18th AUGUST, 2026.

JUDGMENT :-

. **Rule.** Rule is made returnable forthwith with the consent of the parties.

2. Heard both sides.

3. The petitioner has assailed judgment and order dated 25.04.2017 passed by Presiding Officer, College Tribunal in Appeal No. 6 of 2015, thereby confirming his order of dismissal issued on 07.05.2015.

4. The petitioner was appointed on 01.12.1995 as Laboratory Attendant with the respondent number 2 college. He was permanent employee. A disciplinary action was taken against him by leveling charges. One man inquiry committee was appointed to conduct the inquiry. The report was submitted by the inquiry officer on 15.04.2015. He was issued show cause notice on 22.04.2015. Thereafter he was dismissed by order dated 07.05.2015. Being aggrieved he preferred appeal No.6 of 2015. It was contested by the respondents. By impugned judgment appeal was dismissed.

5. Learned counsel for the petitioner Dr. Mr. Warunjikar submits that the penalty of dismissal imposed upon the petitioner is disproportionate, arbitrary and unreasonable considering the nature of charges leveled against him. It is submitted that the explanation submitted by the

petitioner for the charges was not taken into consideration. The findings to the charges are incoherent. The College Tribunal committed an error of jurisdiction in recording inconsistent findings on the charges. It is submitted that the documents produced in his defense in respect of charge No.7 are not taken into account. The findings for charge No.4 regarding loss of computer would show that the same was recovered from the premises itself. It is contended that no proper procedure was followed while conducting inquiry and there is violation of principles of natural justice.

6. *Per contra*, learned Senior counsel Mr. Bandiwadkar would submit that no case is made out by the petitioner to cause any interference in the impugned judgment and order. It is submitted that the judicial review of disciplinary action has limitations and this Court cannot assume any powers of Appellate forum. The re-appreciation of evidence is impermissible which is urged by the petitioner in the writ petition. It is submitted that due procedure of law has been followed and after extending opportunity of hearing, major penalty is imposed upon the petitioner. It is submitted that all the charges are proved and the findings are based on material produced before the Inquiry Officer. Considering the habitual tendency of the petitioner major punishment has been imposed. There are concurrent findings of facts and punishment imposed

is also found to be reasonable and proper.

7. Both the counsel of the parties have taken me through their pleadings, impugned judgment and material placed on record. The petitioner was permanent employee. The disciplinary action was taken against him as per the Standard Code which is applicable for non-teaching employees of non-agricultural colleges and institutions. There is hardly any difference between the procedure contemplated by the Standard Code and Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

8. It is settled legal position that while exercising jurisdiction under Article 227 of the Constitution of India, the High Court does not act as a Appellate Forum and cannot re-appreciate the evidence produced on record. It is rightly pointed out by learned Senior Counsel Mr. Bandiwadekar appearing for the respondents that scope of judicial review in disciplinary matters is laid down by various judgments of the Apex Court and few of them are cited before this Court namely; **B.C. Chaturvedi Vs. Union of India** (1995) 6 SCC 749, **Bank of India & Anr. Vs. Degala Suryanarayana** (1999) 5 SSC 762, **SBI Bikaner at Jaipur Vs. Nemichand** (2011) 4 SSC 584 and **State of Karnataka Vs. N. Gangaraj** (2020) 3 SCC 423. There is no need to burden the judgment by multiple authorities but it would be suffice to refer to following paragraph of *Bank*

of India & Anr. Vs. Degala Suryanarayana (supra) :-

“11. Strict rules of evidence are not applicable to departmental enquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravamen of the charge against the delinquent officer. Mere conjecture or surmises cannot sustain the finding of guilt even in departmental enquiry proceedings. The court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that finding. The court cannot embark upon reappreciating the evidence or weighing the same like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained. In *Union of India v. H.C. Goel* (AIR 1964) SC 364 the Constitution Bench has held:-

"The High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not."

9. In the present case, articles of charges and statement of allegations were supplied to the petitioner, who replied them. Mr. Kishor H. Kulkarni was appointed as Inquiry Officer. The petitioner not engage any representative for the inquiry proceeding. The management adduced

evidence of one witness. The petitioner examined himself. The inquiry report was submitted on 15.04.2015. The petitioner was given show-cause notice on 22.04.2015. Thereafter, he was dismissed from the services by order dated 07.05.2015.

10. Learned counsel for the petitioner did not bring to the notice of this Court that there is a violation of mandatory statutory procedure. The Tribunal also recorded that due procedure of law was followed. The objection submitted by the petitioner against the Inquiry Officer are dealt with and overruled. I do not find that there is violation of principles of natural justice. No prejudice is demonstrated to have been caused to the petitioner. I do not find any perversity or patent illegality in the impugned judgment.

11. My attention is adverted by learned counsel for the petitioner to the articles of the charges and the inquiry report. The Inquiry Officer mixed up charge no.3 with charge no.5. The statement of allegations narrated under heading of charge nos. 3 and 5 were distinct. While assigning reasons for charge no.4, the reasons of charge no.6 regarding disappearance of computer are recorded. While assigning reasons for charge no.5, reasons for charge no.7 are recorded.

12. The Inquiry Officer did not sequence the charges and his reasons properly. But that cannot be the ground to vitiate inquiry proceeding or

the disciplinary action. That can be treated to be irregularity.

13. The respondent – management produced material in support of the charges. The oral evidence was also adduced. It cannot be said that the allegations are totally unfounded. Even, the defence of the petitioner was taken into account. I find no fault in holding him guilty for the charges levelled against him.

14. The respondent has relied on the judgment of **Shivaji Education Society Vs. Presiding Officer, Schools Tribunal & Anr.** 2001 (supp.) Bom.C.R. 400. In that case enquiry was conducted and the delinquent was dismissed from the services. His appeal was allowed by the School Tribunal. The co-ordinate bench commented upon the jurisdiction exercised by the Tribunal. However, in the case at hand, the Tribunal confirmed the disciplinary action. The judgment cited would not enure to the benefits of the petitioner. Otherwise also, this Court has already referred to the judgments of the Supreme Court laying down the scope of judicial review.

15. In this matter, the crucial question is that of proportionality of the punishment. The Tribunal recorded the finding that punishment is reasonable and appropriate. The petitioner was held to be habitually indulging into absenteeism and even submitted apology, previously. It is necessary to look into the charges levelled against the petitioner.

16. The following charges were inquired into for dismissing the services of the petitioner.

- (i) Unauthorized absenteeism from 02.10.2014 to 03.12.2014.
- (ii) Creating false evidence of his presence and making misrepresentations to the higher authorities, thereby causing disrepute to the college and the institution.
- (iii) Insubordination and not remaining present despite being contacted repeatedly from 09-05-2014 onwards to clean and upkeep the department for a government-level college inspection, scheduled on 14.05.2014. Failing to report for the preparation and appearing only on the actual day of the inspection. Thus, willfully disobeying the lawful and proper orders of superiors.
- (iv) Insubordination and misconduct by insulting the superiors on 14.07.2014.
- (v) Dereliction of duties on 01.10.2014 when function of Dandiya was arranged and attending it belatedly and that too without wearing uniform.
- (vi) Loss of computer on 21.11.2014.
- (vii) To conduct a business of cable operating in the town without permission.

17. The charges are held to have been proved by the Inquiry Officer and confirmed by the Tribunal. The petitioner has his own explanation for absenteeism from 02.10.2014 to 03.12.2014. He claimed to have been otherwise terminated as he was not permitted to sign the muster and attend the duties. Immediately he made representations on 07.10.2014, 08.10.2014 and 11.12.2014 making grievance for having prevented him from attending the duties. It is not appropriate for this Court to reverse the findings recorded for charge nos.1 and 2. Those charges are venial in nature in given circumstances. The employee does not rush to Tribunal immediately, if he is prevented from signing muster.

18. The findings to the charge nos.3, 4 and 5 are recorded against the petitioner. Those are mainly insubordination but those also cannot be said to be serious in nature warranting major penalty. It would have been reasonable for the Tribunal to impose lesser punishment than dismissal. The respondents did not indicate the material on record to show that the petitioner was habitual in remaining absent and indulged in misconduct. Previously, he was warned for the absenteeism and even an apology was also tendered. But that is also lacking in material particulars.

19. The charge for loss of computer was serious apparently but the Inquiry Officer himself recorded that the computer set was found in

another room of the same premises. Similarly, the charge of conducting business without permission is apparently serious one. But the petitioner tendered documents in his defence to show that his brother Vijay is the proprietor of Shri. Sai Cable Network. The Registration Certificate dated 22.04.2014 corroborates the defence. No Objection Certificates issued by Sarpanch on 23.09.2014 and 29.01.2014 are also in the name of his brother Vijay.

20. The endeavour of this Court is not to re-appreciate the evidence and to substitute the findings to charges. The findings are gone into so as to examine gravity of the charges.

21. Considering the material placed on record, charges levelled against the petitioner and findings recorded by the Inquiry Officer and the Tribunal, I am of the considered view that the punishment imposed upon the petitioner is disproportionate, arbitrary and unreasonable. The management should have awarded lesser punishment.

22. Learned counsel for the respondents has relied upon the judgment of **Chief Executive Officer, Krishna District Cooperative Central Bank Ltd. vs. K. Hanumantha Rao and Anr.** (2017) 2 SCC 528. Following is the relevant paragraph, which reads as under :-

“7.3 The impugned order is also faulted for the reason that it is not the function of the High Court to impose a particular punishment even in those cases where it was found that

penalty awarded by the employer is shockingly disproportionate. In such a case, the matter could, at the best, be remanded to the disciplinary authority for imposition of lesser punishment leaving it to such authority to consider as to which lesser penalty needs to be inflicted upon the delinquent employee. No doubt, the administrative authority has to exercise its powers reasonably. However, the doctrine that powers must be exercised reasonably has to be reconciled with the doctrine that the Court must not usurp the discretion of the public authority. The Court must strive to apply an objective standard which leaves to the deciding authority the full range of choice. In *Lucknow Kshetriya Gramin Bank v. Rajendra Singh*, this principle is formulated in the following manner: (SCC pp. 380-81, paras 13-14)

"13. Indubitably, the well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to a delinquent employee keeping in view the seriousness of the misconduct committed by such an employee. Courts cannot assume and usurp the function of the disciplinary authority. In *Apparel Export Promotion Council v. A.K. Chopra* this principle was explained in the following manner: (SCC p. 773, para 22)

22. The High Court in our opinion fell in error in interfering with the punishment, which could be lawfully imposed by the departmental authorities on the respondent for his proven misconduct.... The High Court should not have substituted its own discretion for that of the authority. What punishment was required to be imposed, in the facts and circumstances of the case, was a matter which fell exclusively within the jurisdiction of the competent authority and did not warrant any interference by the High Court. The entire approach of the High Court has been faulty. The impugned order of the High Court cannot be sustained on this ground alone.'

14. Yet again, in *State of Meghalaya v. Mecken Singh N.*

Marak this Court reiterated the law by stating (SCC pp. 584-85, paras 14 and 17)

14. In the matter of imposition of sentence, the scope of interference is very limited and restricted to exceptional cases. The jurisdiction of the High Court, to interfere with the quantum of punishment is limited and cannot be exercised without sufficient reasons. The High Court, although has jurisdiction in appropriate case, to consider the question in regard to the quantum of punishment, but it has a limited role to play. It is now well settled that the High Courts, in exercise of powers under Article 226, do not interfere with the quantum of punishment unless there exist sufficient reasons therefor. The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review. In the impugned order of the High Court no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Failure to give reasons amounts to denial of justice. The mere statement that it is disproportionate would not suffice.

*

*

*

17. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The High Court in this case, has not only interfered with the punishment imposed by the disciplinary authority in a routine manner but overstepped its jurisdiction by directing the appellate authority to impose any other punishment short of removal. By fettering the discretion of the appellate authority to impose appropriate punishment for serious misconducts committed by the respondent, the High Court totally misdirected itself while exercising jurisdiction under Article 226. Judged in this background, the conclusion of the Division Bench of the High Court cannot be regarded as proper at all. The High Court has interfered with the punishment

imposed by the competent authority in a casual manner and, therefore, the appeal will have to be accepted."''

23. I propose to follow the ratio laid down by the Apex Court in relegating the matter to the Disciplinary Authority to determine the punishment.

24. Learned counsel for the respondent has relied on the judgment of the Apex Court in the case of *State of Karnataka* (Supra), which reiterates the power of judicial review conferred on the constitutional Court. I am bound by the powers and the scope of judicial review. Hence, I am not inclined to cause any interference in the disciplinary action taken against the petitioner. However, for the reasons stated hereinabove, I find that punishment needs to be interfered with.

25. If the punishment of dismissal is to be quashed then, the petitioner will have to be reinstated. In that case, the question of payment of back wages would arise. The appeal memo in Appeal No. 6 of 2015 is silent regarding the fact as to whether the petitioner remained unemployed after dismissal. It is with the special knowledge of the petitioner to incorporate necessary pleadings as to whether he was in gainfully employed with other entity or not. No submissions are made to that effect.

26. For foregoing reasons, I pass following order :-

ORDER

- (i) The impugned judgment and order passed by the Tribunal shall stand confirmed, save and except, the punishment of dismissal from the services.
- (ii) The order of dismissal dated 07.05.2015 is quashed and set aside and the petitioner is directed to be reinstated in the services without any back wages or the auxiliary benefits.
- (iii) The Management shall determine the punishment to be imposed upon the petitioner but shall not impose major penalty of dismissal.
- (iv) Rule is made absolute in the above terms.

(SHAILESH P. BRAHME, J.)

27. The learned counsel for the respondents, after pronouncement of the judgment seeks suspension of its execution so as to enable the party to approach the Apex Court.

28. The petitioner was dismissed from service on 07.05.2015, and he is to be reinstated. The Tribunal had dismissed his appeal. In such a scenario, it would be appropriate to grant time to the respondent-Management so as to enable it to approach the Apex Court by suspending

the order.

29. The effect, operation and execution of the order shall stand suspended for a period of four (4) weeks.

30. Upon the expiration of the said period, the suspension shall stand revoked.

(SHAILESH P. BRAHME, J.)