

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3375 OF 2015

SUNIL NATHARAM GHODKE
VERSUS
THE ADDITIONAL COMMISSIONER, AURANGABAD AND ANOTHER

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Advocate for Petitioner : Shri Nagarsoge Sahebrao A
AGP for Respondent 1 : Smt. Kshirsagar Y.M.
Advocate for Respondent 2 : Shri Suryawanshi P.D.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 29, 2015
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PER COURT :-

1. On 23.7.2015, after hearing the learned Advocates for quite sometime, I had passed the following order:-

“1 I have heard the learned Advocates appearing for the respective sides.

2 The issue turns upon the show cause notice dated 12.12.2013 which was issued to the Petitioner and which has resulted in passing of an order of punishment on the very next date 13.12.2013. The Appellate Authority interfered with the said punishment by the impugned judgment dated 19.01.2015 in Appeal No.55/2014 thereby, reducing the punishment to stoppage of one increment temporarily without cumulative effect.

3 Rule 4 of the Maharashtra Zilla Parishad District Services (Discipline & Appeal) Rules, 1964 prescribes the nature of penalties under Part III. Rule 6 prescribes the procedure for imposing major penalties. Clauses (iv) to (vii) of Rule 4 are held to be major penalties requiring department enquiries.

4 *Though the contention of the Petitioner is that the show cause notice is vague and ambiguous, the punishment finally settled by the Appellate Authority is only to the extent of stoppage of one increment temporarily without cumulative effect.*

5 *Shri Nagarsoge, learned Advocate for the Petitioner, seeks a short accommodation to take instructions, whether, the Petitioner would prefer to accept the said punishment or would prefer to undergo a de novo proceeding on the ground that the show cause notice is ambiguous.*

6 *Similarly, Shri Suryawanshi, learned Advocate for Respondent No.2, prays for time to take instructions as regards the said show cause notice.*

7 *The affidavit in reply filed by Respondent No.2 is taken on record. Stand over to 29.07.2015 to appear in the Supplementary Board.”*

2. The learned Advocate for the petitioner upon instructions submits today that the petitioner is prepared to face a de novo disciplinary proceedings and would participate in the said proceedings.

3. Shri Suryavanshi, learned Advocate on behalf of respondent No.2 submits on instructions that since the show cause notice at issue appears to be lacking in details concerning the charges levelled upon the petitioner, the respondent / department is desirous of issuing a fresh show cause notice in accordance with law and conduct de novo disciplinary proceedings against the petitioner.

4. In the light of the above statements, made on instructions, this petition is disposed off by recording that the show cause notice dated

12.12.2013 is recalled, impugned order is set aside. Proceedings subsequent thereto are rendered infructuous.

5. Respondent No.2 Department shall therefore, follow the due process of law in initiating the disciplinary proceedings against the petitioner.

(RAVINDRA V. GHUGE, J.)

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