

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6969 OF 2012

SHRIRANG TOLARM JADHAV AND OTHERS

PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

RESPONDENTS

Mr.K.J.Suryawanshi, Advocate for the petitioners.

Mr.S.S.Dambe, Advocate for respondent No.3.

Mr.K.M.Suryawanshi, AGP for respondent Nos.1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 08/01/2015

PER COURT :

1. This Court, by its order dated 17/04/2013, had recorded as under :-

“ Heard learned counsel for the parties for some time. The learned Counsel for the petitioners submits that without following the provisions under Rule 4 (iii) and (vii) of the Maharashtra district Services (Discipline and Appeal) Rules, 1964, CEO has passed the order. He submits that the petitioners were neither heard by the Inquiry Committee nor by the Chief Executive Officer and directly, order has been passed. Therefore, he submits that the order impugned in this petition cannot sustain and the same may be set aside.

2. *The learned counsel for the Zilla Parishad prays for a week's time to take instructions from the Chief Executive Officer as to whether it is possible to him to hear the petitioners and*

then pass appropriate orders as contemplated under the relevant provisions.

3. At the request of Counsel for Respondent No.3, stand over to 26th April 2013.

Learned AGP also to take similar instructions from the Divisional Commissioner.”

2. Pursuant to the same, a further order was passed by this Court on 26/04/2013, which is as under :-

“1. In pursuance to the order dated 17/04/2013, passed by this Court, the Chief Executive Officer, Zilla Parishad, Beed has shown inclination / willingness to afford opportunity of hearing to the petitioners. The counsel appearing for the Chief Executive Officer, on instructions, makes a statement that the Chief Executive Officer is prepared and ready to hear the petitioners during the period from 20th to 22nd May, 2013.

2. In the light of the above, petitioner Nos. 1 to 5 herein to appear before the Chief Executive Officer on 20/05/2013 at 11.00 a.m. Petitioner Nos. 6 to 10 herein to appear before the Chief Executive Officer on 21/05/2013 at 11.00 a.m. And petitioner Nos. 11 to 15 herein to appear before the Chief Executive Officer on 22/05/2013 at 11.00 a.m. The Chief Executive Officer shall give individual hearing as contemplated under the provisions of Maharashtra Zilla Parishad (Discipline and Appeal) Rules.

3. After giving opportunity of individual hearing to the petitioners, the Chief Executive Officer shall submit his report

before this Court on or before 10/06/2013. List the petition for further hearing on 11/06/2013."

3. By communication dated 22/04/2013, the Chief Executive Officer, Zilla Parishad, Beed has informed the Registrar of this Court that an opportunity of hearing would be given to the petitioners so as to come to an appropriate decision. By communication dated 10/06/2013, the District Social Welfare Officer, Zilla Parishad, Beed has intimated the Registrar of this Court that there would be no recovery against the petitioners since the issue is being re-looked into and after hearing the petitioners on 21/05/2013, some more enquiries were rendered necessary and the process of conducting such enquiries is under way. Copy of the said letter is placed on record and marked as Exhibit "X" for identification.

4. In the light of the above, since the petitioner is heard and the concerned respondent is yet to submit an Enquiry Report, there cannot be recovery as against the petitioners on the basis of the impugned order dated 15/04/2011, which is confirmed by the Commissioner by his order dated 05/09/2011.

5. In the light of the above, this petition need not be kept pending

as the concerned respondents have themselves decided to pass fresh orders as regards recovery based upon the final report that would be prepared.

6. Needless to state, the petitioners may raise all the contentions, in the event a fresh order is passed by the Zilla Parishad and if it is prejudicial to their interest.

7. As such, this petition is disposed off as being infructuous. The petitioners are at liberty to challenge any fresh order passed by the concerned Zilla Parishad, Beed, if the same is prejudicial to the interest of the petitioners.

(RAVINDRA V. GHUGE, J.)