

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1944 OF 2016

Dnyaneshwar Tukaram Sakhare

..PETITIONER

VERSUS

The State of Maharashtra and Others

..RESPONDENTS

....

Mr. A.R. Vyawahare, Advocate for petitioner.

Mr. V.S. Badakh, AGP Respondent No.1.

....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 23rd FEBRUARY, 2016

ORAL ORDER :

1. The petitioner is aggrieved by the order dated 14.01.2016 passed by Respondent No.2 – Chief Executive Officer, Zilla Parishad by which he has been placed under suspension under Rule 3 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rule, 1964.

2. The petitioner has challenged the impugned order on the following grounds:

(a) Political influence has been exerted for suspending the petitioner.

(b) Previously he has filed a complaint against the temporary misappropriation committed by the Headmaster of CP School Kawalgaon, Tq. Purna, Dist. Parbhani which led to the initiation of disciplinary proceedings against the Headmaster.

(c) The Cluster Head of the Panchayat Samitee is hands in gloves with the Headmaster and therefore they have put pressure on the competent authority to suspend the petitioner.

(d) Earlier, the respondent had issued a suspension order dated 08.03.2011 which was subsequently revoked on 23.04.2011.

(e) By order dated 30.11.2015, the petitioner was shifted elsewhere so as to keep him away from his place of work.

(f) The petitioner was previously transferred and was not paid his salary which constrained him to prefer Writ Petition No. 6413/2011 before this Court.

(g) After his transfer order was revoked, this Court by order dated 11.10.2011 disposed of the Writ Petition No.

6413/2011 since the statement was made that the salary would be paid to the petitioner regularly.

(h) Circumstances do not warrant the suspension of the petitioner pending disciplinary enquiry.

(i) A vague and ambiguous complaint has been filed against the petitioner which is the basis of the suspension.

3. Learned AGP appears on behalf of Respondent No.1 and submits that the rules pertaining to suspension sufficiently protect the interest of the petitioner.

4. I have considered the submissions of the learned Counsel for the petitioner who has strenuously attempted to criticize the impugned order of suspension.

5. It is trite law that suspension is of two types. One type is a suspension pending disciplinary proceedings and the second type of suspension is by way of punishment. Rule 3 of the 1964 Rules has been invoked by Respondent No.2 while suspending the

petitioner which indicates that the suspension is pending disciplinary proceeding.

6. It is equally well settled that the suspension pending disciplinary enquiry is within the domain of an employer and the only obligation cast upon the employer is to follow the due procedure, if prescribed, before issuing an order of suspension and to ensure that the suspension allowance is regularly paid to the suspended employee in accordance with rules.

7. In the instant case, the petitioner has been suspended pending disciplinary proceedings under Rule 3. Needless to state, Respondent No.2 is under an obligation to ensure that the suspension allowance (commonly termed as subsistence allowance) is paid to the petitioner regularly and without causing any delay. So also, since the enquiry is to be conducted within a stipulated period, Respondent No.2 would be under an obligation to ensure that the disciplinary proceedings are commenced and are concluded within the prescribed period.

8. With these observations, this petition is disposed off.

9. It is stated by the petitioner at this juncture that a representation dated 03.11.2014 is pending before Respondent No.2. Needless to state that Respondent No.2 is at liberty to decide the said representation in accordance with law.

(RAVINDRA V. GHUGE, J.)