

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6638 OF 2016

[Tejrao Tukaram Jadhav .vs. Zilla Parishad, Washim]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.M. Ghare, counsel for the petitioner.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : NOVEMBER 25, 2016.

By this writ petition, the petitioner challenges the order of the Chief Executive Officer, Zilla Parishad, Washim, dated 29.8.2016, placing the petitioner under suspension, in view of the provisions of Rule 3 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964 on the ground that the offence punishable under Section 7, 13 (c) (d) r/w Section 13 (2) of the Prevention of Corruption Act, 1988 was registered against the petitioner.

Shri Ghare, the learned counsel for the petitioner, states that the petitioner could not have been placed under suspension under Rule 3(b) of the Rules, as the investigation, in respect of the complaint made against the petitioner is completed and the trial against the petitioner has not commenced. It is stated that the provisions of Rule 3 (b) of the Rule could have been invoked only during the pendency of the investigation or trial. It is stated that in view of the judgment of the Hon'ble Supreme Court, reported in 2015 (2) Scale 432 (Ajay Kumar Choudhary .vs. Union of India, through its Secretary and another), a suspension cannot be continued for more than three months.

We are not inclined to interfere with the order of the Zilla Parishad in exercise of the writ jurisdiction. Admittedly, the

offence punishable under Section 7, 13(1) (d) r/w Section 13 (2) has been registered against the petitioner, after the completion of the investigation. The charge-sheet is also filed. It cannot be said that the provisions of Rule 3 (b) of the Rules would not apply to such cases. Merely because the trial has not actually commenced, the petitioner cannot effectively challenge the order of suspension. Also, three months have not lapsed from the date of order of suspension and, therefore, we would not consider whether the judgment reported in 2015 (2) Scale 432 would apply to the case of the petitioner or not. If the petitioner is of the view that the suspension is liable to be revoked, it would be necessary for the petitioner to make a representation to the authorities under Rule 3 (5) of the Rules for revocation of the suspension.

In the circumstances of the case, we dismiss the writ petition with no order as to costs. The Zilla Parishad is, however, free to decide the representation of the petitioner, if it is made, under Rule 3(5) of the Rules, as expeditiously as possible. Order accordingly.

JUDGE

JUDGE