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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.680/2010

Sitaram Kishanrao Latpate & others.
...Petitioners..

Versus

The State of Maharashtra & another.
...Respondents...

.....

Shri S.D. Karkare, Advocate h/f Shri P.K. Joshi, Advocate
for petitioners.

Smt.M.A. Deshpande, AGP for respondent no.1.

Shri S.V. Mundhe, Advocate for respondent no.2.

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**CORAM: R.D. DHANUKA &
SUNIL K. KOTWAL, JJ.**

DATE: 13.09.2017

ORDER :

1] Heard learned counsel appearing for the parties.
With the consent of learned counsel, the petition is
taken up for final disposal.

2] By this petition filed under Article 226 of the
Constitution of India, the petitioners seek to quash the
order dated 29.9.2009 passed by the respondent no.2 -
Chief Executive Officer, Zilla Parishad, Parbhani whereby
cancelling the two additional increments granted to the

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petitioners vide order dated 28.2.2005.

3] It is the case of the petitioners that the increments were properly granted by the respondents to the petitioners vide order dated 28.2.2005, which were unilaterally withdrawn without rendering any opportunity of being heard and *ex-parte*.

4] On the other hand, it is the case of the respondents that the increments were granted to the petitioners contrary to the Government resolution dated 29.10.1980. The respondents were also directed by the Panchayat Raj Committee to cancel the benefit of extra increments granted to the petitioners. The respondents, however, do not dispute that before cancelling the increments already granted to the petitioners vide order dated 28.2.2005, the petitioners were not heard by the concerned Department.

5] In our view, the rights which are accrued in favour of the petitioners vide order dated 28.2.2005 by providing two additional increments could not have been taken away by the respondent no.2 - Chief Executive Officer, Zilla Parishad, Parbhani, without complying with the principles of natural justice. Admittedly, no

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hearing was granted to the petitioners before withdrawing the said additional increments already granted to the petitioners vide order dated 28.2.2005 and without issuing any show cause notice. The impugned order was passed by the respondent no.2 on 29.9.2009 after more than four years of the order of increment dated 28.2.2005 and that also without any notice and hearing. We are, therefore, inclined to set aside the impugned order dated 29.9.2009 passed by the respondent no.2 thereby withdrawing the increments granted in favour of the petitioners vide order dated 28.2.2005, the same being in violation of principles of natural justice. We, therefore, pass the following order.

6] Writ Petition No.680/2010 is allowed and Rule is made absolute in terms of prayer clause (C). It is, however, made clear that the respondent no.2 would be at liberty to issue notice to the petitioners and grant hearing to the petitioners before passing any fresh order. Appropriate order shall be passed by the respondent no.2 if he proposes to issue any notice for seeking withdrawal of two additional increments by order dated 28.2.2005. The respondent no.2 shall pass a

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reasoned order after giving an opportunity to the petitioners of being heard and to make a representation to him.

7] Rule is made absolute in aforesaid terms. There shall be no order as to costs.

(SUNIL K. KOTWAL, J.)

(R.D. DHANUKA, J.)