

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3488 OF 2013

Dr. Sunita Suresh Thorat

(Mrs. Sunita Nilesh Patil)

..Petitioner

Vs.

Zilla Parishad, Satara and Others

..Respondents

Mr. Anil V. Anturkar, Senior Counsel i/b Mr. Sugandh B. Deshmukh, for the Petitioner.

Mr. Uday P. Warunjikar, for Respondent Nos.1 and 2.

Ms. Sushma Bhnde, AGP, for the State.

CORAM :- **S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

DATE :- **MARCH 24, 2017.**

P. C.:

The Petitioner at the relevant time was posted at Primary Health Center and which was controlled by the Satara Zilla Parishad.

2 An order of suspension was issued by the then Chief Executive Officer of that Zilla Parishad on 5th February,

2013, which is under challenge.

3 While dealing with the challenge at ad-interim stage, a Division Bench of this Court passed the following order:-

“ Leave to add the State as party-Respondent. Amendment to be carried out forthwith. Learned AGP waives service for the State.

2 Learned Senior Counsel appearing for the Petitioner submits that the Petitioner is under suspension since 5th February 2013 consequent to the impugned order dated 5th February 2013 on the allegations of the incident which is described in the said order. It is submitted that the impugned order be stayed as it is passed without authority of law and even on merits, the order of suspension is not sustainable.

3 The learned Counsel appearing for the Respondent No.1-Zilla Parishad states that the Zilla Parishad has forwarded the proposal to the State government after holding preliminary enquiry by a communication dated 23rd April 2013 in accordance with the Government Resolution dated 28th March 2012. So far the State Government has not communicated its decision.

4 The facts reveal that on the incident which is reflected in the impugned order, the Medical Officer has been suspended and she continues to be under the suspension since 5th February 2013. So far no enquiry has been initiated against her. We find appropriate in the facts of the case that until further orders, the services of the Medical Officer could be made available to the rural people.

5 Prima facie, we are convinced to pass the following order:

By way of an interim order, we stay the order of suspension. The Petitioner shall report to her duties at the earliest.

6 Stand over to 3rd February 2015.”

4 That order is operative till date.

5 Mr. Warunjikar on the earlier occasion had sought time to take instructions and revert back to this Court as to whether the Petitioner indeed was allowed to report for duties.

6 Mr. Warunjikar produces photocopy of a communication received from the Satara Zilla Parishad and particularly signed by the District Health Officer dated 23rd March, 2017. That indicates that Dr. Sunita Suresh Thorat now Mrs Sunita Nilesh Patil has been allowed to report for work but after permitting her to resume duties at the very Primary Health Center, later on, the District Health Officer has posted the Petitioner at some other Primary Health Center. She has, therefore, reported for work by joining duties at that Primary Health Center. The instructions are that the Petitioner is allowed to work.

7 In the light of the ad-interim order passed by this Court which ensures that a Primary Health Center has services of a qualified Doctor and particularly a lady Doctor,

we do not wish to proceed with this Writ Petition any further. The Petitioner admittedly was on deputation and to this health services of the Satara Zilla Parishad. She is stating that she is a State Government employee. The Satara Zilla Parishad is awaiting instructions from the Government as to whether the Satara Zilla Parishad can enquire into a misconduct of the Petitioner or it would be the employer who has appointed her on a substantive post who is empowered to hold such enquiry.

8 We only direct that if any written proposal for initiating a disciplinary enquiry against the Petitioner and from the Satara Zilla Parishad is pending consideration of the State Government, the Competent Authority therein should take a decision on this proposal and as expeditiously as possible. We direct that the decision be taken within two months, if such written proposal is pending consideration.

9 We dispose off the Writ Petition by confirming the ad-interim order but at the same time clarifying that neither

have we expressed any opinion on whether the Petitioner has committed any misconduct nor have we expressed our view on the powers of any particular authority to hold such disciplinary enquiry. Therefore, the issue of maintainability of such proceedings, jurisdiction of authority and equally the contentions on the merits of the charges, are kept open. They shall be gone into uninfluenced by the order in the Writ Petition. We take on record a communication addressed to Mr. Warunjikar and mark it "X" for identification.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)