

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 WRIT PETITION NO. 8763 OF 2017

MANJUSHREE MAHESH DALIMBKAR
VERSUS
THE CHIEF EXECUTIVE OFFICER ZP AHMEDNAGAR AND
ANOTHER

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Advocate for Petitioner : Mr. S. S. Jadhavar
AGP for Respondent no.2: Mr. S. P. Tiwari
Advocate for Respondent no.1 : Mr. A. D. Aghav

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CORAM : V. K. JADHAV, J.
DATED : 20th MARCH, 2018

PER COURT:-

Learned counsel for the respondent/Zilla Parishad, Ahmednagar has raised a preliminary objection to the effect that the alternate remedy by way of revision as provided under Rule 15(c) of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 is available to the petitioner.

2. Learned counsel for the petitioner submits that though the alternate remedy is available in the peculiar facts and circumstances of the present case, this court can exercise the writ jurisdiction in favour of the petitioner. Learned counsel submits

that so far as the petitioner is concerned, the conviction was recorded by the criminal court against her for the offence punishable under Section 342 of the Indian Penal Code. Being aggrieved by the same, the petitioner had preferred an appeal and this court has suspended the conviction of the petitioner by considering that if the conviction is not suspended, the respondent/Zilla Parishad, Ahmednagar would take action against her, for termination of her services. Learned counsel submits that even though the petitioner has pointed out the same to the Chief Executive Officer and also in the appeal before the Commissioner, the same was not considered.

3. In view of the alternate remedy by way of revision as contemplated under Rule 15(c) of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 is available to the petitioner, the petitioner may avail the same. I do not find any substance in the apprehension expressed by the learned counsel for the petitioner that the grounds raised by the petitioner would not be considered even if the alternate remedy is availed. It is a part of record that this court has suspended the conviction order passed against the petitioner for the reason that

she came to be convicted under Section 342 of IPC and if the conviction is not suspended, she would be terminated by the respondent/Zilla Parishad on that ground alone. The petitioner is at liberty to raise this ground specifically before the revisional authority i.e. State Government, as per the provisions of Rule 15, as aforesaid.

4. If such revision under Rule 15(c) of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 is preferred by the petitioner within four weeks from today, the revisional authority shall consider the time spent in pursuing this writ petition before this court while considering the point of limitation, if raised / arises while entertaining the revision. Writ petition is accordingly disposed of.

5. If such revision is filed as aforesaid, the revisional authority shall dispose of the revision within six months from today.

(V. K. JADHAV, J.)

vsm/