

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

902 WRIT PETITION NO. 8698 OF 2018

SANTOSH RAJENDRA SALUNKHE
VERSUS
THE CHIEF EXECUTIVE OFFICER ZILL PARISHAD OSMANABAD AND
ANOTHER

...
Advocate for Petitioner : Mr. Jadhavar Santosh S.

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 31, 2018

O R D E R :

The petitioner is assailing the order of suspension.

2. Mr. Jadhavar, learned counsel for the petitioner submits that the order of suspension passed by respondent no.2 is per se erroneous.

3. The petitioner could not have been put under suspension only because criminal case has been filed against the petitioner. According to the learned counsel the order of the Education Officer is deemed to

have been passed by the Chief Executive Officer under its delegated powers.

4. The order is passed by the authority subordinate to the Chief Executive Officer. Rule 12 (1) of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 state that a Parishad servant, against whom an order of suspension is made or is deemed to have been made by an authority other than the Chief Executive Officer, may appeal against such order to the Executive Officer. Sub-rule (2) prescribes that the remedy of appeal would not be available if order of suspension is made or deemed to have been made by the Chief Executive Officer. Sub-rule (2) cannot be extended to mean that if under the delegated powers the orders are passed by the Education Officer, the same would be deemed to have been passed by the Chief Executive Officer. If the order would have been passed under the instructions of the Chief Executive Officer, then

it would have been presumed that the order is deemed to have been passed by the Chief Executive Officer. In the present case, there is nothing on record to show that the order of suspension is issued under the directions of the Chief Executive Officer. The petitioner will have remedy of appeal under Rule 12 (1) of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules of 1964.

5. In view of that, Writ Petition is disposed of, with liberty to the petitioner to avail remedy of appeal. All contentions are kept open. If appeal is filed within 15 days from today, the same shall be deemed to be within limitation. If such appeal is filed, the Chief Executive Officer shall decide the appeal, expeditiously, preferably within two months from the date of receipt of appeal.

[**SUNIL K.KOTWAL, J.**] [**S.V.GANGAPURWALA, J.**]

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