

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11959 OF 2018
(Ravindra s/o Arjun Deore Vs. Chief Executive Officer and another)

Mr.S.T.Shelke, Advocate for the petitioner.
Mr.K.S.Patil, AGP for the respondent/State.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 25/10/2018

PER COURT :

1. The petitioner is aggrieved by the refusal of the Additional Divisional Commissioner, Nashik in considering his appeal, vide the order dated 27/06/2018.

2. I have heard the learned Advocate for the petitioner and the learned AGP on behalf of respondent No.2. Respondent No.1 is a formal party and hence leave to delete is granted. Deletion be carried out forthwith.

3. Rule 12, 13 and 14 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964 clearly indicate that appeals against orders of suspension can be preferred under Rule 12. Appeal against orders imposing penalties can be preferred under Rule 13. Appeals against 'other orders' can be preferred under Rule

14. Rule 16 deals with the period of limitation for appeals and revisions if they are tendered after 3 months from the date on which the appellant/applicant receives a copy of the order in respect of which the appeal or revision is to be made. The proviso thereunder enables condonation of delay.

4. By the impugned order, respondent no.2 concluded that there are no specific guidelines as to how an application is to be made and whether it has to be considered under Rule 16 and 17. I find that Rule 17 permits every Parishad servant to submit an appeal or revision application separately and in his own name. Every appeal/revision application is to be addressed to the authority to which it lies and shall contain all material statements and arguments and shall not contain any disrespectful or improper language. Rule 14 permits a Parishad servant to assail a cause of action set out in clauses (a) to (g) under Rule 14(1) and such appeals are to be preferred to the Commissioner of the Division if the order is passed by the CEO. Since Rule 16 and the proviso thereunder enables condonation of delay, it was incumbent upon respondent No.2 to consider the application of the petitioner on its own merits.

5. It is pointed out that the impugned order of the CEO is dated

16/09/2017. The appeal is preferred on 04/12/2017 and the limitation period prescribed under Rule 16 is of 3 months. As such, there is no delay.

6. In view of the above, this petition is allowed and the impugned order dated 27/06/2018 is quashed and set aside. The appeal of the petitioner shall be considered by the Additional Divisional Commissioner on its own merits after hearing all the litigating sides.

7. The petitioner shall appear before the said authority on 02/11/2018 at 12.00 noon. The concerned authority would issue notices to the respondents in the said matter and would proceed to follow the due procedure in conducting a hearing in the said appeal. Needless to state, the said Authority shall pass a reasoned order and decide the said proceedings preferably on or before 31/03/2019.

(Ravindra V.Ghuge, J.)