

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
13 WRIT PETITION NO.157 OF 2018**

RAJENDRA JAYSINGRAO PAWAR ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

**WITH
WRIT PETITION NO.156 OF 2018**

PREETAMKUMAR CHANDRAKANT BEDARKAR ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. Girish S. Rane, Advocate for the Petitioners.
Mr. Y. G. Gujrathi, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.
DATED : 25th MARCH, 2019.**

PER COURT:-

1. The petitioners were appointed as members of the Child Welfare Committee, Ahemadnagar for a period of 2013-2016. A complaint was received by the respondents against petitioners. The State Advisory Committee conducted an enquiry, submitted a report to the State Government and thereafter, decision has been taken to terminate the services of petitioners.

2. Mr. Rane, learned counsel for petitioners submits that procedure is not followed. The State Advisory Committee does not have jurisdiction to

conduct an enquiry and to make recommendations to the Government. The principles of natural justice are not followed. The show cause notice was issued in respect of one complaint, whereas the order of termination is based on various complaints. The learned counsel relies on the judgment of the Division Bench of this Court in a case of **Lata Mohanlal Gandhi Vs. State of Maharashtra and Others** reported in **2016 (1) Mh.L.J. 405**.

3. The learned A.G.P. submits that as the complaints were received, the enquiry was conducted. The State Advisory Committee only assisted the Government in fact finding and thereafter, decision has been taken by the Appointing Authority. No illegality has been committed.

4. It is trite that when a statute requires a particular thing to be done in a particular manner, it has to be done in that manner only, otherwise not to be done at all. The petitioners were members of the committee. The show cause notice was issued to petitioners probably referring to one complaint. However, thereafter, the State Advisory Committee also submitted the report. Reference appears to be made to the other complaints also.

5. In that case there would be transgression of principles of natural justice. It is also not

shown us as to how the State Advisory Committee would get jurisdiction to conduct an enquiry. This Court in case of **Lata Mohanlal Gandhi Vs. State of Maharashtra and Others** (supra) had made the following observations:-

"10. It is not a matter of dispute that the State Government has framed rules, namely Maharashtra Juvenile Justice (Care and Protection of Children) Rules, 2002 and those Rules have been amended in the year 2011. Rules of 2011 framed by the State Government, more particularly Rule 11 provides for Advisory Boards. Sub-rule (5) of Rule 11 provides that the State Advisory Board shall advise the Government on matters relating to the establishment and maintenance of the homes, mobilizing of the resources, provisions of facilities for education, training and rehabilitation of the child in need of care and protection and juvenile in conflict with law and co-ordination among the various officials and non-official agencies concerned. Sub-rule (5) of Rule 11 does not provide for inquiring into the allegations levelled against Chairperson of the Committee and making recommendations to the State Government at the conclusion of {8} wp156015.odt such inquiry. The contention raised by the Respondents that an appropriate inquiry has been conducted in accordance with Rule 11 and report has been tendered to the State Government, recommending termination of appointment of the petitioner, does not appear to be in conformity with Rule 11. Sub-rule (5) of Rule 11 does not authorise the Advisory Board to hold an inquiry against the Chairperson of the Committee and recommend termination of his or her appointment. Section 29(4) of the Act, however, authorises the State Government to terminate appointment of the Member of Committee in the matters

covered under clauses (i), (ii) and (iii) of sub-section (4) of Section 29. The power of the State Government to terminate appointment of Member or Chairperson of the Committee cannot be disputed. However, such power must be exercised in adherence to the principles of natural justice."

6. The present case is also governed by the facts and principles in the case of **Lata Mohanlal Gandhi Vs. State of Maharashtra and Others** (supra). The principles of natural justice seems to have been violated.

7. In light of that, impugned order is quashed and set aside. The respondent-State may conduct a fresh enquiry in accordance with the rules and procedures as laid down under the Maharashtra Juvenile Justice (Care and Protection of Children) Amendment Rules, 2011 and Juvenile Justice (Care and Protection of Children) Act, 2000.

8. As the term of petitioners is already over, petitioners certainly are not entitled to claim the reappointment on the said posts.

9. Writ Petitions are disposed of. No costs.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE