

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

WRIT PETITION NO. 7270 OF 2018

Vaijnath Eknathrao Jogdand .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Vijay B. Jogdand Patil, Advocate for the Petitioner.
Mrs. A. V. Gondhalekar, Addl.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 22ND JANUARY, 2019.

FINAL ORDER :

. Mr. Jogdand, the learned advocate for the petitioner strenuously contends that the Departmental Enquiry initiated against the petitioner was on erroneous grounds. The petitioner has explained each and every charge satisfactorily. The charge Nos. 1 to 4 are not proved against the petitioner. The learned counsel further submits that, the petitioner has submitted accounts diligently of Suwarna Jayanti meeting. The petitioner has timely attended the said meetings. The explanation given by the petitioner has not been rightly considered. Even the witnesses examined did not support the case of respondents. According to the learned counsel, the punishment ought not have

been inflicted upon the petitioner. The Commissioner has also failed to consider all the relevant aspects of the matter and the evidence on record.

2. Mrs. Gondhalekar, the learned Additional Government Pleader for the respondents/State submits that, the Commissioner has taken a liberal view. Two increments were directed to be stopped permanently by the disciplinary authority, however, the Commissioner has modified the punishment and made it temporary withholding two increments. Even suspension is to be counted for the pensionary benefits as per the order of the Commissioner.

3. This Court in its exercise of writ jurisdiction under Article 226 of the Constitution of India in matters pertaining to departmental enquiry will be in a narrow compass. This Court would not sit as an appellate authority over the decision taken. This Court would be concerned about the due adherence to the decision making process. The evidence has been recorded in the Departmental Enquiry. Proper opportunity has been given to the petitioner. After witnesses are examined, the evidence has been scanned, enquiry report has been considered and the authority has passed the order inflicting punishment upon the petitioner.

4. The petitioner was supposed to remain present on 31st March that is the last day of submission of the record and the financial statements so as to get the grants. However, on the said date, the petitioner remained absent because of which the problems were created.

5. The fact that, the petitioner did not remain present on 31st March is accepted by him. However, his contention that he had informed his superior cannot be accepted. It does not appear that, he had taken leave on that day, it was also observed that, because the petitioner did not remain present, necessary information could not be given to the Election Commission. It was also observed that, the petitioner does not remain present during the office hours, for that purpose biometric record was also considered.

6. The Commissioner has taken liberal view. In the light of that, no case for interference is made out. The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]