

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

WRIT PETITION NO. 6333 OF 2018

**ANNA KRUSHNA HARALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Nikam Anup R.

AGP for Respondents No. 1 & 2 :

Mrs. A. V. Gondhalekar

Advocate for Respondents No. 3 to 6 :

Mr. K. J. Ghute Patil

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**CORAM: S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATE: 20th NOVEMBER, 2019

PER COURT:

1. The contention of the learned counsel for the respondents is that the stoppage of increment is on account of the minor penalty imposed upon the petitioner and the same is not disclosed in the present writ petition. It is further contention of the learned counsel for the respondents that the petitioner has a remedy to challenge the said minor punishment before the Deputy Director of Education.

2. The learned counsel for the petitioner relies on the judgment of the Division Bench of this Court in ***Prabhakar Mallikarjun Suryawanshi and others Vs. State of Maharashtra and others*** reported in ***2018(3) Mh. L. J. 503*** to contend that, any penalty beyond one increment would be a major penalty and cannot be resorted to without departmental enquiry. In the present case, one increment has been stopped in the year - 2007 and again the increment has been stopped in the year - 2011. The said increments are stopped without issuing show cause notice to the petitioner. Even in case of minor penalty, the preliminary requirement of issuance of show cause notice is required to be adhered to. In the present case the same is not done.

3. It is also the fact that the petitioner ought to have disclosed in the petition that the increments were stopped on account of the minor penalty. The said fact is suppressed by the petitioner.

4. Considering all the aforesaid aspects, we are not inclined to consider the case of the petitioner for stoppage of the increment in the year 2007, on account of minor penalty. As far as subsequent increment in the year - 2011 is concerned, we set aside the order imposing penalty of the stoppage of the increment of the year 2011. The petitioner will be entitled for the said increment. In case there is no other legal impediment, the said increment shall be counted notionally from the year - 2011. The actual benefit shall be paid to the petitioner for the period of three years prior to the filing of the writ petition. The said benefit shall be granted expeditiously and preferably within a period of three (03) months.

5. Writ Petition stands disposed of accordingly.
No costs.

[AVINASH G. GHAROTE, J.] [S. V. GANGAPURWALA, J.]

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