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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO.8185 OF 2018

CHIEF EXECUTIVE OFFICER ZP AURANGABAD
THROUGH AUTHORIZED OFFICER
SHRI. GOPAL M. KUDLIKA AND ANOTHER ... PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS ... RESPONDENTS

...

Advocate for Petitioner : Mr. Ghute Suhas B.
AGP for Respondent Nos. 1 and 2/State: Mr. K.B. Jadhavar

...

CORAM : V.K. JADHAV, J.
DATED : 7th NOVEMBER, 2019

PER COURT :

1. This is a unique writ petition viz. Writ Petition No.8185 of 2018 whereby the Disciplinary Authority has challenged the order passed by the Appellate Departmental Authority.

2. The respondent No.3 was subjected to departmental inquiry and the inquiry was conducted by the Additional Divisional Commissioner, Aurangabad Division, Aurangabad. The Inquiry Officer viz. Mr. Shyam Patwari has recorded finding in the affirmative to charges 1 to 4. Accordingly, the Inquiry Officer has submitted his inquiry

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report to petitioner no.1 herein. The petitioner no.1 herein after giving opportunity of hearing to respondent no.3 - Anita Kiran Chavan imposed the penalty of dismissal from the service.

3. Being aggrieved by the same, respondent no.3 Anita Kiran Chavan has preferred a departmental appeal in terms of Rule 13 (e) of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964. By order dated 02.02.2018, the Additional Divisional Commissioner, Aurangabad has partly allowed the appeal, set aside the order of dismissal passed by petitioner no.1 and reduced the penalty to the extent of stopping of one increment for temporary period without affecting the further increments. It is pertinent to note that as against this order passed by the Appellate Departmental Authority, petitioner no.1 being a Disciplinary Authority has preferred this writ petition.

4. In terms of Rule 22 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964, the authority in respect of whose order the appellate or the revisional authority passes orders in appeal or in revision shall give effect to the order so passed by the appellate or the revisional authority. Rule 22 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964 is reproduced herein below;

“22. The authority in respect of whose order the appellate or the revisional authority passes orders in appeal or in revision shall give effect to the orders so passed by the appellate or the revisional authority”.

5. In terms of Rule 22, as reproduced herein above, the Disciplinary Authority is bound to give effect to the orders so passed by the Appellate Departmental Authority. In view of the same, writ petition preferred by the Disciplinary Authority is totally unwarranted and uncalled for. The writ petition itself cannot be entertained in terms of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964.

6. Even otherwise, I have carefully perused the order passed by the Appellate Departmental Authority along with the report submitted by the Inquiry Officer. It appears that as against the charges proved against respondent no.3, the penalty of dismissal from service imposed by Disciplinary Authority appears to be disproportionate. The Appellate Departmental Authority has considered the same and accordingly, reduced the penalty. I do not find any fault in the order passed by the Appellate Departmental Authority. Even on merits also there is no substance in this writ petition. Hence, The writ petition is hereby dismissed. No costs.

(V.K. JADHAV, J.)