

Division], ESI Hospital, 4th Floor)
Wagle Estate, Thane.) Respondents.

Mr. N. V. Bandiwadekar a/w Mr. Vinayak Kumbhar, Advocate for the
Petitioner.

Mr. A. K. Jalisatgi a/w Mr. V. U. Jagdale & a. B. Desai, Advocate for
Respondent Nos.1 & 2.

Mr. Y. S. Khochare, AGP for Respondent Nos.3 to 5.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 16th JANUARY, 2019

ORAL JUDGMENT: (Per B. R. GAVAI, J.)

1] Rule. Rule is made returnable forthwith. Respondents waive
service. Heard by consent of parties.

2] Petitioner has approached this Court being aggrieved by the
order dated 09/01/2014 vide which a minor penalty has been
imposed on the Petitioner, thereby withholding one increment
without having cumulative effect.

3] Heard Mr. Bandiwadekar, the learned Counsel appearing on

behalf of the Petitioner and Mr. Jalisatgi, learned counsel appearing on behalf of Respondent Nos. 1 and 2.

4] Petitioner was appointed as Food Inspector with Respondent No.1 – Corporation. Petitioner was directed to perform his duty as per the provisions of the Food Adulteration (Prevention) Act, 1954 under the supervision of Respondent No.2. However, subsequently, designation of the “Food Inspector” came to be changed as “Food Safety Officer” and they came under the administrative control of the Food Safety Commissioner.

5] Petitioner was served with show cause notice dated 11/10/2013, asking upon him to show cause, as to why action be not taken against him for various misconducts. Petitioner replied to the said show cause notice on 14/10/2013. However, Respondent No.2 was not satisfied with the reply given by the Petitioner and as such, by the impugned order dated 09/01/2014, the penalty, as aforesaid, has been awarded.

6] The learned Counsel appearing on behalf of the Corporation vehemently opposes the Petition. He submits that Respondent No.2 has passed an order after taking into consideration the relevant factors.

7] We find that the Petition deserves to be allowed on two grounds. Firstly, perusal of the show cause notice would reveal that allegations made against the Petitioner in the show cause notice are totally vague in nature. It is settled law that if the allegations in the show cause notice are vague, it would not be possible for delinquent to effectively submit his reply and therefore the same would violate the principles of natural justice.

8] Secondly, Petition deserves to be allowed on the ground that the impugned order does not give any reasons. Perusal of the order would reveal that no reasons are given even for name sake. The issue is no more *res integra*. Division Bench of this Court in the case of *Gajanan Babu Patil vs. State of Maharashtra and others*¹ has observed thus :-

¹ 2003(1) Mh.L.J.988

“8. The legal position that the disciplinary authority as also the appellate authority has to give reasoned order is always settled and has now been finally laid down by the Full Bench of this Court interpreting the provisions of Maharashtra Rules regarding conduct of departmental enquiry and proceedings. This Court has specifically laid down the manner in which the orders are to be passed. We introduced what has been laid down by the Full Bench suffice to say that the orders passed by the disciplinary authority as also the appellate authority required to be speaking order. As observed already the order of the disciplinary authority as also the appellate authority is not a speaking order and consequently they are not sustainable in law. Even if it is assumed in favour of the respondent that the disciplinary authority itself being enquiring authority and it has given an enquiry report holding the petitioner guilty, no additional reasons need be given in the order of punishment. In such a case, according to law, more responsibility lies on the earlier authority to give its finding on each point raised. The appellate court has totally failed to perform its duty. No reason has given why the appeal of the Petitioner was dismissed. No reason is given to

defend the insufficiency of evidence or absence of evidence. We therefore find it impossible to sustain the orders of punishment as passed by the authorities below. In the result therefore the petition succeeds and it is allowed.”

9] We are of the view that the impugned order deserves to be quashed and set aside on the short ground of violation of Rule 10 of the Maharashtra Civil Services [Discipline and Appeal] Rules, 1979.

10] In the result, Petition is allowed. Rule is made absolute in terms of prayer clauses (b) and (d).

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)