

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.122 OF 2005

Suresh S/o Manikrao Bharsakle,

Vs.

Zilla Parishad Amravati, Through its Chief Executive Officer Amravati and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri I. S. Charlewar, Advocate for petitioner.

Shri M. A. Sable, Advocate for respondent no.1.

Mrs. H. N. Prabhu, Assistant Government Pleader for respondent no.2.

CORAM : A. S. CHANDURKAR, J.

DATE : DECEMBER 09, 2019.

The challenge raised in the present writ petition is to the order dated 29.10.2002 passed by the Chief Executive Officer imposing punishment on the petitioner by directing him to be brought at the minimum level of his basic pay from the date of the order. The period of suspension was to be treated as suspension itself. The Additional Commissioner by order dated 23.01.2004 modified that order of punishment and directed five annual increments to be withheld on permanent basis with cumulative effect. During pendency of the writ petition, request was made by the Chief Executive Officer by his communication dated 30.06.2008 to the Additional Commissioner to reconsider the earlier order in view of observations made in that communication. The Commissioner has informed the Chief Executive Officer on 27.10.2008 that as the present writ petition is pending it would not be proper to review the earlier order.

It is found that the request made by the Chief Executive Officer for reviewing the earlier order is based on the observations that though the charges against the petitioner had been proved the same did not involve any misappropriation. It is also been observed that punishment of withholding five annual increments appears to be disproportionate with the charges as proved. In view of the fact that a request for reviewing the earlier order dated 23.01.2004 is pending before the Additional Commissioner, the interests of justice would be met by directing the Additional Commissioner to take a decision on the request made by the Chief Executive Officer by his communication dated 30.06.2008. For that purpose and to enable a decision in that regard being taken the order dated 23.01.2004 passed by the Additional Commissioner in appeal is set aside. The proceedings in the appeal are restored for fresh adjudication along with the request for review made by the Chief Executive Officer on 30.06.2008. The Additional Commissioner shall grant hearing to the petitioner as well as the respondent no.1 and pass fresh orders preferably within period of eight weeks from today. All points are kept open. Rule is disposed of on aforesaid terms. No costs.

JUDGE