

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5349 of 2017**

Shri Nisar Ahmed Shaikh

.....Petitioner

versus

The State of Maharashtra and ors.

.....Respondents

Mr. Dilip Bodake i/b. Mr. Sharad T. Bhosale, advocate for the petitioner.

Mr. Nisha Mehra, AGP for respondent Nos.1 to 3 and 5.

**CORAM : R. K. DESHPANDE AND
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 11th MARCH, 2020.

P. C. :

1. A major punishment was imposed upon the petitioner by the order passed by the Chief Executive Officer, Zilla Parishad, Satara, on 29th November, 2008. The punishment was to bring the petitioner back to the original wage rank of the post of Deputy Teacher in terms of Rule 3 (4) of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964. This was the subject matter of challenge in the appeal before the Additional Commissioner, Pune Division, Pune who partly allowed the appeal and the order of punishment was modified. The modified order reduced five increments of the petitioner and directed the decision to be taken by Chief Executive Officer, Zilla Parishad, Satara, in respect of the period of suspension and recovery of the amount of misappropriation against the petitioner. The order was further carried in revision by the petitioner before the Minister who dismissed the revision on 10th November, 2015. Hence, this writ petition.

2. Total 15 charges were framed against the petitioner, out of which, 12 charges were proved, 2 charges were partly proved and 1 charge was disproved.

3. Learned counsel for the petitioner has invited our attention to the following findings recorded by the Additional Commissioner, Pune Division, Pune, in the order dated 16th January, 2020, which are reproduced herein below:

“ Considering the above facts and circumstances the charges framed against appellant, out of 15 charges 12 charges proved and 2 charges were partly proved and once charge is disproved. And also shows that supplementary chargesheet, opportunity was not give (sic) to the appellant in said enquiry and no any explanation was given by Department enquiry officers. At present appellant have given opportunity to file explanation about the said offences. The charges which are proved showing that appellants behaviour(sic) and conduct and some errors and economical irregularities. Hence said charges are indecent against teacher's profession, till this facts showing that the punishment given to the appellant is much higher than charge. Hence I come to the conclusion that I Shri R. N. Joshi, Additional Commissioner, Pune Division, Pune as per Maharashtra Z.P.District Service (Conduct and Appeal) Rules 1964 according to article 13(e) passed following order as under ;...”

4. It is urged that the petitioner was not served with the supplementary charge-sheet containing the charge Nos. 7 to 15 and this is substantiated according to the petitioner by the findings as aforestated recorded by the Additional Commissioner, Pune Division, Pune.

5. We put a specific question to learned counsel appearing for the petitioner to point out to us any such ground in respect of the factual aspect raised in the appeal or revision to the effect that no opportunity to show

cause was given in respect of the supplementary charges from Nos. 7 to 15. Except vague ground in the petition that no show cause notice was issued in respect of the supplementary charges from Nos. 7 to 15, nothing is brought to our notice.

6. We have gone through the charges and inquiry report. Even if we take into consideration the charges at Nos. 1 to 6 in the show cause notice, which were admittedly served upon the petitioner, we do not find any reason to interfere in the ultimate modified order of punishment of reduction of 5 increments imposed upon the petitioner. The writ petition is dismissed.

[PRITHVIRAJ K. CHAVAN, J.]

[R. K. DESHPANDE, J.]