

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

WRIT PETITION NO. 3142 OF 2020

Ku. Waheeda Bano d/o Ramzan Khan
vs.
The State of Maharashtra and others

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

Court's or Judge's orders

Mr. S. U. Ghude, counsel for petitioner.

CORAM : MANISH PITALE J.

DATED : 07/12/2020

The petitioner in the present petition has challenged order dated 15/07/2020 passed by the respondent No.3 that Chief Executive Officer of Zilla Parishad, whereby one increment of the petitioner was temporarily withheld and the period of suspension was directed to be treated as such.

2. The back-ground facts leading upto passing of the order by respondent No.3 are that an earlier order had been passed against the petitioner pursuant to disciplinary proceeding whereby the respondent No.3 had passed an order withholding one increment for specific period and directing the period of suspension to be treated as such. Being aggrieved by the said order, the petitioner had filed an appeal before the respondent No.2 Divisional Commissioner. By order dated

12/01/2018, the respondent No.2 had remanded the matter back to the respondent No.3 for further consideration, pursuant to which the aforesaid order dated 15/07/2020 has now been passed by the respondent No.3.

3. In this writ petition, the petitioner has challenged the aforementioned earlier order dated 12/01/2018 passed by the respondent No.2, as well as the consequential order dated 15/07/2020 passed by the respondent No.3.

4. The learned counsel for the petitioner contends that the earlier order dated 12/01/2018 passed by the respondent No.2 was unsustainable, because, the order of the respondent No.3 made subject matter before the respondent No.2 was not specifically set aside while remanding the matter back to the respondent No.3.

5. This Court is unable to appreciate the said contention raised on behalf of the petitioner, for the reason that the petitioner did not challenge the said order dated 12/01/2018 of the respondent No.2 in the first instance and in fact abided by the same by making representations before the respondent No.3 for early disposal of the matter upon remand. The impugned order dated 15/07/2020, is only a consequential order upon remand by the respondent No.2. There is no dispute about the fact that under the relevant Rules, the

petitioner can certainly approached the respondent No.2 in appeal, as was done by her in the first round.

6. Therefore, this Court refuses to entertain the present writ petition and grants liberty to the petitioner to approach respondent No.2 in appeal under the relevant Rules. The respondent No.2 shall decide the appeal that may be filed by the petitioner, in accordance with law.

7. The writ petition is disposed of with aforesaid observations.

JUDGE