

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6303 OF 2021

BABASAHEB SITARAM PATIL

..PETITIONER

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

..RESPONDENTS

AND

WRIT PETITION NO.6305 OF 2021

NURMOHAMMAD NAJIRODDIN SHAIKH

..PETITIONER

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

..RESPONDENTS

...

**Mr. Anilkumar B. Dhongade, Advocate for the
Petitioners.**

Mr. S. P. Tiwari, AGP for Respondents-State.

**Mr. P. B. Vikhe and Mr. K. S. Patil, Advocate for
Respondent Nos.1 to 3.**

...

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 22nd NOVEMBER, 2021.

PER COURT:-

**1. The petitioners assail the show cause
notice, so also the enquiry report.**

**2. Mr. Dhongade, learned counsel for
petitioners submits that, petitioners are working
as primary teachers with respondents. On the basis
of complaint of one Mr. Kadari, the departmental**

proceeding was initiated. The report was submitted. Thereafter, the show cause notices are issued to petitioners. It is submitted that, petitioners have taken the advance amount and has not submitted the adjustment of the said amount till date.

3. The learned counsel further submits that, petitioners have filed reply to the show cause notice and denied the charges. Again second show cause notice was issued to petitioners for the same charges and sought reply within 10 days and further initiated the departmental enquiry. The petitioners filed reply pointing out that all the formalities in respect of the adjustment of the accounts has been done within stipulated period of 90 days. After 10 years the same is sought to be reopened. On 06.04.2021 again the show cause notice is issued on the same charges for which earlier replies were filed and respondents were satisfied. It was stated that, if within 2 days amount is not deposited and reply is not filed, then the criminal case will be filed against petitioners and action would be taken.

4. The learned counsel further submits that, entire record has been placed before respondents. They are not considering it.

5. The learned counsel for respondent nos.1, 2 and 3 submits that, the departmental enquiry made

against petitioners is as per the Rules. The record has not been submitted by petitioners as contended by petitioners. The petitioners were supposed to submit the entire record relating to advance adjustment amount to the office of respondent no.3. The Education Officer has also made it clear that, the office has not received any report relating to the advance adjustment amount. Time to time petitioners were asked to submit the record and the receipts of the advance adjustment amount. In view of that, no illegalities have been committed by respondents.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. The petitioners contend of having submitted the certificates and records of advance adjustment amount. The petitioners contend that, alongwith present petition and rejoinder affidavit also the same has been filed.

8. The same would require investigation to the facts. The respondent no.1 would be a competent person to consider the said aspects. The petitioners shall once again submit the entire record available with them or the copies thereof to respondent no.1. The respondent no.1 shall reconsider the documents placed by petitioners with regard to the adjustment of the advance amount and

shall take decision afresh. The petitioners shall submit the necessary record preferably within a period of three weeks from today. The respondent no.1 shall thereafter, take decision upon the record submitted and show cause notice after considering the record presented by petitioners preferably within a period of three months thereafter. Depending upon the decision that would be taken by respondent no.1, the Authorities may take further course of action.

9. Writ Petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE