

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

996 WRIT PETITION NO.6329 OF 2020

NITIN NAMDEORAO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr.A.G. Talhar, Advocate for the petitioner.
Mr.P.S. Patil, Addl.GP for respondent/State.
Mr.P.S. Gaikwad, advocate for respondent no.4.

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CORAM : S.V. GANGAPURWALA
AND
S.G. DIGE, JJ.

DATE : 07th JANUARY, 2022

PER COURT :-

1. The petitioner has challenged the communication wherein recovery is claimed on the ground that the excess amount is paid to the petitioner. The petitioner is working as Full Time Instructor with respondent no.4. The services of the petitioner according to the petitioner are approved. The petitioner was granted increments. According to the respondents, the increments have been granted on the basis of incorrect documents and information. The dispute is about the incorrect increments granted to the petitioner and the recovery claimed.

2. After hearing the learned advocate for the petitioner and the learned A.G.P., it transpires that before passing the order claiming

recovery from the petitioner no show-cause notice was issued nor the report of the Committee was made available to the petitioner. It is trite that any action adverse to the interest of the person is undertaken, the principles of natural justice are required to be adhered to. In the present case, without supplying the copy of the report and without issuing show-cause notice to the petitioner directly recovery is claimed.

3. The copy of the report is placed on record. The petitioner is now served with the report relied upon by the respondents while issuing the impugned communication.

4. One of the contentions of the petitioner is that earlier in the year 2005 also the inquiry was done and everything was found in order. It is for the petitioner to place the documents on record before the authority concerned.

5. Considering the aforesaid, we pass the following order :-

ORDER

(i) The impugned communication shall be construed as a show-cause notice to the petitioner.

(ii) The report in pursuant to which the impugned communication is issued is now served upon the petitioner. The petitioner shall file the reply to the impugned communication i.e. now to be construed as show-cause notice, within a period of four weeks from today.

(iii) The respondents shall consider the reply and averments of the petitioner and take decision afresh on its own merits in accordance with law after considering the stand taken by the petitioner and all other aspect of the matter.

(iv) The decision would be taken preferably within three months from the date of receipt of reply from the petitioner.

(v) Depending upon the decision that would be taken, further steps be taken by the parties in respect of all the consequential benefits.

(vi) Writ Petition is disposed of. No costs.

(S.G.DIGE, J.)

(S.V. GANGAPURWALA, J.)