

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

**WRIT PETITION NO. 4748 OF 2023**

Madhav Dhanajirao Ghyar,  
Age : 57 years, Occu. Service,  
R/o. Tirupati Nagar, Hingoli,  
Taluka and District Hingoli.

...Petitioner

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Rural Development,  
Mantralaya, Mumbai.
2. The Chief Executive Officer,  
Zilla Parishad, Hingoli.
3. The Education Officer (Primary),  
Zilla Parishad, Hingoli.
4. The Divisional Commissioner,  
Aurangabad Division, Aurangabad.

...Respondents

.....

Shri. Santosh S. Jadhavar – Advocate for the petitioner

Shri. A. V. Deshmukh – AGP for respondent/State

Shri. Sachin S. Deshmukh –Advocate for respondent nos.2 & 3

.....

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ.  
AND  
ARUN R. PEDNEKER, J.**

**DATED : 15<sup>TH</sup> SEPTEMBER, 2023**

**PER COURT : -**

1. Heard Shri. Santosh S. Jadhavar, learned counsel  
for the petitioner, Shri. A. V. Deshmukh, learned Additional

Government Pleader and Shri. Sachin S. Dehsmukh, learned counsel for respondent nos. 2 and 3.

2. Petitioner is presently working as Headmaster in a Secondary School run by Zilla Parishad, Hingoli and is aggrieved by the action on the part of respondent nos. 2 and 3, whereby he is not being relieved for submitting his joining on the next higher post of Block Education Officer in terms of the promotion order passed by the State, dated 29.12.2022. Drawing our attention to clause 7 of the Government Resolution dated 29.12.2022, it has been argued by the learned Additional Government Pleader and the learned counsel representing the Zilla Parishad that since the departmental inquiry against the petitioner is pending, hence in terms of the said clause of the promotion order/resolution the petitioner cannot be given posting on the post on which he has been promoted i.e. the post of Block Education Officer.

3. The petitioner while working on the post of Headmaster was placed under suspension on certain allegations and charges by the order dated 08.06.2022. The suspension, however, was revoked by means of an order dated 15.11.2022. The departmental proceedings initiated against

him were, however, not revoked and accordingly a charge-sheet was issued to him on 12.10.2022. After issuance of the charge-sheet, it has been stated by the learned counsel for the petitioner that the departmental proceeding has not yet proceeded any further though the petitioner has submitted reply to the charge-sheet. In the meantime, the State Government passed a Resolution dated 29.12.2022, whereby the petitioner has been promoted to the post of Block Education Officer. The place of posting indicated in the order of promotion is 'Soygaon, Panchayat Samiti, Aurangabad'. In partial modification of the earlier Government Resolution/Order dated 29.12.2022, another Government Order has been issued by the State Government on 20.04.2023 whereby the place of posting of the petitioner has been altered from Soygaon, Zilla Parishad, Aurangabad to Hingoli, Zilla Parishad, Hingoli.

4. It may be noticed that till date departmental proceedings initiated against the petitioner have yet not been concluded and accordingly in view of the prescription available in the Government Resolution/Order dated 29.12.2022, unless departmental proceedings are concluded, he cannot be posted at Hingoli on his post on which he has been promoted i.e. on

the post of Block Education Officer. We also notice that though the departmental proceedings against the petitioner were initiated by placing him under suspension way back on 08.06.2022 and a period of more than fifteen (15) months has elapsed, however, the departmental proceedings have not been concluded. Keeping an employee under such a state cannot be approved of. If any departmental proceedings have been initiated against an employee, it is the bounden duty of the employer to conclude the same as early as possible.

5. In this case on account of the pendency of the departmental proceedings for more than fifteen (15) months the petitioner, though has been legitimately promoted to the next higher post i.e. Block Education Officer, is unable to enjoy the fruits of the order of promotion on account of pendency of the departmental proceedings against him. In view of the aforesaid facts and circumstances, the writ petition is finally disposed of with the following directions:

[a] The departmental proceedings against the petitioner shall be concluded within a period of two (02) months from today by the authority / authorities concerned. The proceedings shall be

conducted in accordance with law and after giving an adequate opportunity to the petitioner to represent his case.

- [b] Depending upon the outcome of the departmental proceedings, the petitioner shall be considered to be relieved for submitting his joining on the post of Block Education Officer at Hingoli within ten (10) days from the date of conclusion of the inquiry.
- [c] We further direct that the petitioner shall cooperate with the departmental proceedings.
- [d] We have passed the aforesaid order keeping in view the over all facts and circumstances and as also the fact that the petitioner is due to retire on his attaining the age of superannuation on 29.02.2024.
- [e] There will be no order as to costs.

**[ ARUN R. PEDNEKER, J. ]**

**[ CHIEF JUSTICE ]**