

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

WRIT PETITION NO. 6521 OF 2023

Alaknanda Marotirao Munde
Age : 54 years, Occu. : Service,
R/o. Bindusara Colony, Adarsh Nagar,
D.P. Road, Beed. Tal. & Dist. Beed. .. Petitioner

Versus

1. The Additional Divisional Commissioner,
Aurangabad Division, Aurangabad.
2. The Chief Executive Officer,
Zilla Parishad Office, Beed. .. Respondents

Mr. Avinash D. Aghav, Advocate for the Petitioner.
Mr. S. B. Pulkundwar, AGP for Respondent No. 1.
Mr. P. D. Suryawanshi, Advocate for Respondent No. 2.

**AND
WRIT PETITION NO. 6736 OF 2023**

Shaikh Shamim Begam Abdul Samad
Age : 49 years, Occu. : Service,
R/o. Z. P. Primary School Patrud (Urdu)
Tal. Majalgaon, Dist. Beed. .. Petitioner

Versus

1. The Additional Divisional Commissioner-2,
Aurangabad Division, Aurangabad.
2. The Chief Executive Officer,
Zilla Parishad Office, Beed. .. Respondents

Mr. Avinash D. Aghav, Advocate for the Petitioner.
Mr. S. B. Pulkundwar, AGP for Respondent No. 1.
Mr. P. D. Suryawanshi, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 21st JUNE, 2023.

ORAL JUDGMENT :-

. Rule. Rule made returnable forthwith. Taken up for final disposal by consent of the parties.

2. Both the petitions are similar and respondent- Zilla Parishad is the same and therefore, both the petitions are taken up together.

3. Heard the learned advocates for the parties.

4. The grievance raised in both these petitions is that, the Chief Executive Officer has passed an order of stopping of two increments by order dated 02.03.2019 in Writ Petition No. 6736/2023. The order was challenged by filing an appeal before the Additional Divisional Commissioner, Aurangabad bearing Appeal No. 2019/DB/Appeal/Sale/102. The said appeal came to be decided by the judgment and order dated 30.12.2021 thereby rejecting the appeal only on the basis that show cause notice was issued and explanation was called. In Writ Petition No. 6521/2023 the order of stopping of one increment was passed by order dated 19.12.2018. The appeal was preferred before the Additional Divisional Commissioner, Aurangabad bearing Appeal No. 2019//DB/Appeal No. 1/CR 41. The said appeal came to be

decided by order dated 22.03.2021. Only notice was issued and on that count the appeal was rejected. The petitioner filed review application. The same also came to be rejected by order dated 05.07.2022.

5. In both the petitions it is specific ground raised that, without holding any enquiry the impugned action is taken by the authorities. When any action is to be taken the authorities concerned was to give notice of the enquiry and on this ground the orders are challenged. The petitioners in both the petitions rely upon the judgment passed by this Court in Writ Petition No. 1312/2020 dated 06.12.2021. This Court by considering the Rules 8 and 9 of the Maharashtra Zilla Parishad District Services (Discipline & Appeal) Rules, 1964 has held that, it was necessary to hold an enquiry. The orders passed by the Chief Executive Officer were quashed and set aside. Another judgment relied upon by the petitioners is the judgment of this Court in Writ Petition No. 8421/2018 with other connected petitions dated 09.07.2019 decided at Nagpur Bench involving the same issue. In the batch of those writ petitions the Court has held in similar circumstances that even the appeal filed by the petitioners was dismissed by the Additional Divisional Commissioner and in that, the petitions were allowed. The petitioners further rely upon the judgment in Writ Petition No.

5917/2021 dated 05.04.2023 passed by this Court wherein, in similar circumstance the petition was allowed.

6. Learned advocate for Zilla Parishad fairly accepts this position. He only submits that, for the acts committed by the petitioners, Zilla Parishad is free to take action. He submits that liberty be kept open to take appropriate action against the petitioners by following proper procedure.

7. Needless to say that, it is always open for the employer to take action against the employees by following proper procedure.

8. Taking into consideration all above aspects and judgments passed by this Court, this Court finds that the petitions can be allowed in terms of prayer clause (B).

9. Both the petitions are allowed. Rule made absolute in terms of prayer clause (B).

10. It is clarified that, it is open for the Zilla Parishad to take action by following proper procedure as provided under the rules.

(KISHORE C. SANT, J.)

PS.B.