

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.11945 OF 2022

Rajan Janardhan Korgaonkar ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

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Mr. Balaji Shinde, for the Petitioner.
Mr. P.P. Pujari, AGP for the State-Respondent Nos. 1 and 2.
Mr. Rohit Sakhadeo, for Respondent Nos. 3 and 4.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 24, 2023

P.C.:

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at the stage of admission.

2. The petitioner who serves as a Teacher at the Primary School, Diggas No.1, Tal. Kudal, Dist. Sindhudurg, takes exception to the order passed by the State Minister (Rural Development) dated 19th April, 2022 in Appeal No. 89/A-12 whereby the Revision Application preferred by the petitioner under the provisions of Rules 15 and 21 of the Maharashtra Zilla Parishad Service (Discipline and Appeal) Rules, 1964 (the Rules, 1964) came to be partly allowed by modifying the penalty of reduction to a lower stage in a time scale to withholding of one increment permanently.

3. The petitioner was the President of Teachers Association. Mr. Chandrakant Anavkar who was the State level office bearer and adviser of the Teachers Association had addressed a Press Conference at Sinddhudurg. The petitioner and another office bearer were present in the said press briefing. A news item was published in 'Prahar' daily on 11th February, 2016 attributing certain statements to the petitioner.

4. The Education Officer, Jilla Parishad, respondent No. 4 and the officers of the Jilla Parishad, Sinddhudurg took umbrage. Alleging that the petitioner had committed misconduct within the meaning of Rule 3 of the Maharashtra Zilla Parishad District Services (Conduct) Rules, 1967 (the Rules, 1967), charge memo was served on the petitioner on 20th April, 2016. The petitioner gave reply on 7th July, 2016. A Departmental Enquiry was instituted. After recording the statements of witnesses, the petitioner was found guilty of misconduct by the Assistant Commissioner (Inquiries) vide Report dated 2nd June, 2018. Based on the inquiry report, the Chief Executive Officer, Sinddhudurg by an order dated 27th March, 2018 imposed the penalty of reducing the petitioner's pay to the lowest stage in the time scale under Rule 4 (iv) of the Rules, 1964.

5. Being aggrieved, the petitioner preferred an appeal before the Divisional Commissioner. By an order dated 3rd September, 2020 the appeal came to be dismissed. The petitioner carried the matter in revision before the State Government. By the impugned order, the Minister of State (Revenue) was persuaded to partly allow the appeal to the extent of modifying the penalty. Instead of the penalty of reducing the pay to the lower stage in the time scale the penalty of withholding one increment permanently, came to be substituted.

6. I have heard Mr. Balaji Shinde, learned counsel for the petitioner, Mr. Pujari, learned AGP for the State and Mr. Rohit Sakhadeo, learned counsel for respondent Nos. 3 and 4.

7. Mr. Shinde submitted that the authorities failed to appreciate the principal contention of the petitioner that the petitioner had neither held the press briefing nor gave the information on the basis of which the news item was published in 'Prahar' newspaper. Mr. Shidne laid emphasis on the explanation furnished by Mr. Chandrakant Anavkar to the CEO, Sinddhudurg wherein Mr. Anavkar has categorically stated that the press conference was not convened by the petitioner. Mr. Anavkar had given the information to the journalist in the capacity of the State Adviser of the Teachers

Association. Though the petitioner and Mr. Namdeo Jambhvadekar, Konkan Division Chief and Mr. Chandrasen Patade, District Secretary of the Teachers Association were present, the information was given by him alone. Therefore, the impugned orders of holding the petitioner guilty of misconduct deserve to be quashed and set aside.

8. To begin with, the scope of interference in exercise of the writ jurisdiction. The Court is primarily concerned with the decision making process. From the perusal of the impugned orders, it does not appear that there is either jurisdictional error or defect in procedure. The inquiry seems to have been conducted in conformity with the rules and in adherence to the principles of natural justice.

9. On the merits of the decisions, it is trite, in exercise of the writ jurisdiction, this Court can not interfere for the mere reason that a different view on facts is possible. It does not seem to be a case of no evidence or the view recorded by the authorities is such that no prudent person could have arrived at such conclusion. At best, the contention of Mr. Shinde would fall in the arena of the appreciation of material.

10. On the said touchstone as well, I do not find any justifiable reason to interfere with the impugned order. Indisputably, the press briefing was held in breach of the conduct rules. The presence of the petitioner in the press briefing is established by the statement of Mr. Chandrakant Anavkar. The news item attributes the statements to the petitioner. The only defence seems to be that the petitioner had not made such statements. The matter thus clearly falls in the realm of fact finding.

11. Since the authorities have taken a view based on the material, this Court would not be justified in taking a different view of the matter. In any event, the Minister, State has shown leniency in treatment to the petitioner. Resultantly, the petition does not deserve to be entertained.

Hence, the following order.

ORDER

1] The petition stands dismissed.

2] Rule discharged.

3] No costs.

(N. J. JAMADAR, J.)