

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1686/2023

(VANITA GANGARAM GUDEKAR **VERSUS** STATE OF MAHARASHTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri V.S. Lokhande, counsel for the petitioner.
 Shri A.A. Madiwale, Assistant Government Pleader for the respondent no.1.
 Shri M.L. Vairagade, counsel for the respondent nos.2 and 3.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : APRIL 26, 2023.

The challenge raised in this writ petition is to the order dated 28.02.2023 by which the petitioner has been placed under suspension pending proposed departmental enquiry. Reference therein has been made to Rule 3(1)(a) of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964 (for short, 'the Rules of 1964').

2. It is submitted by the learned counsel for the petitioner that the report lodged against the petitioner resulted in a non-cognizable report being recorded and hence there is no justification on the part of the Zilla Parishad in placing the petitioner under suspension. On the contrary, the petitioner herself has submitted a report against the Medical Officer on 17.02.2023. Hence, the suspension of the petitioner is unwarranted.

3. The learned counsel for the Zilla Parishad has tendered an affidavit-in-reply wherein reference is made to the enquiry held on the directions of the District Medical Officer. After considering the preliminary report the Zilla Parishad has on 24.03.2023 issued statement of allegations to the petitioner with regard to such departmental enquiry. It is therefore submitted that the order of suspension is justified in the light of Rule 3(1)(a) of the Rules of 1964.

4. Having heard the learned counsel for the parties and on perusing the documents on record, we find that initially a preliminary enquiry was held in view of the incident dated 17.02.2023. After recording the statements of various persons that preliminary report was submitted to the District Medical Officer who has thereafter proceeded to initiate the disciplinary proceedings against the petitioner. The provisions of Rule 3(1)(a) of the Rules of 1964 are clear and where disciplinary proceeding is contemplated a Parishad servant can be placed under suspension. It is in this context the order of suspension has been issued. We therefore do not find any illegality in the order of suspension. By observing that the disciplinary enquiry shall be held in accordance with law and on its own merits without being influenced by any of the observations made in this order, the writ petition is dismissed with no order as to costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

APTE