

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

**WRIT PETITION 2735 OF 2020**

Shri Ashok s/o. Baliram Charpe,  
aged about 60 yrs, Occ. Retired,  
r/o. Holi Chowk, Saoner,  
Tahsil Saoner, District Nagpur

**.....PETITIONER**

**...V E R S U S...**

1. The State of Maharashtra,  
Urban Development Department,  
Mantralaya, Mumbai 400 032

2. The Nagar Parishad, Saoner,  
Thourgh its Chief Officer,  
Tahsil Saoner, District Nagpur

**..RESPONDENTS**

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Mr. V.D. Muley, counsel for petitioner.  
Mrs. K.R. Deshpande, AGP for respondent 1/State.  
Ms. Radhika Bajaj, counsel for respondent 2.  
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**CORAM:- ROHIT B. DEO & MRS. VRUSHALI V. JOSHI, JJ.**  
**DATE : 06.04.2023**

**JUDGMENT** (Per: Rohit B. Deo, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally  
with consent of the parties.

3. Petitioner is assailing the communication dated

31.1.2020, issued by respondent 2 – Municipal Council, Saoner (Council), which reflects the refusal to release the retiral benefits. Petitioner is further assailing the chargsheet dated 28.2.2020.

4. Facts lie in narrow compass and are broadly either admitted or are incontrovertible.

5. Petitioner was appointed on the establishment of Council on 23.10.1992 as Clerk. He superannuated on 28.2.2019 as Sanitary Inspector.

6. Petitioner was placed under suspension from 1.11.2017 to 12.12.2018. Chargesheet was issued and departmental enquiry was conducted. It was alleged that the petitioner failed to exercise diligence in discharge of duties and in the overall supervision of the sanitary staff working under him. The Enquiry Officer did not find any substance in the charge and submitted report of exoneration dated 1.7.2019.

7. Petitioner sought release of the retiral dues. The representation went unheeded and the petitioner approached the Lokayukta, who advised the petitioner to approach the appropriate

authority. Petitioner again approached the Council, and in response, was informed that a decision is taken to conduct fresh enquiry. Petitioner avers that the decision to conduct fresh enquiry is presumably on the premise that such is the recommendation of the Lokayukta. Petitioner hastens to assert that as a fact, there was no such recommendation.

8. Be that as it may, broadly the case of the petitioner is that he having been exonerated in regularly conducted departmental enquiry, there cannot be a second enquiry on the same facts and situation.

9. We have perused the affidavit in response of the Council. The stand of the Council is that it was in view of the direction issued by the Collector that decision to conduct the enquiry was taken. We, therefore, called upon the Council to place on record a categorical clarification as to whether the Collector was aware that the petitioner was exonerated in regularly conducted enquiry. In response to our query, the Council avers thus:

*“7. That, the Chief Officer of the answering respondent had informed the Up-Lokayukta in writing during the hearing dated 10.1.2020 about the earlier departmental enquiry in which the*

*petitioner was recommended to be absolved of the charges framed against him. That, during this hearing as well as the answering respondent had informed the authority that the Municipal Council had not yet taken any action on the said report. That, however, from the perusal of the record available, it does not reflect that the collector was informed about the enquiry report dated 1.7.2019 submitted by the Enquiry Officer.*

*8. That, in view of the above submissions the answering respondent has in every manner possible attempted to perform his duties. That, hence, the answering respondent submits his reply to the queries put forth by the Hon'ble Court vide its order dated 18.8.2021."*

10. Be that as it may, while the Collector was not aware of the exoneration of the petitioner in a regularly conducted enquiry, even *de hors* the said aspect, in our considered view, the question of initiating second enquiry on same or similar set of allegations just does not arise. Permitting such enquiry to continue shall tantamount to putting imprimatur on a witch hunt which we are loath to do.

11. We quash and set aside the decisions impugned including the chargesheet and direct respondent 2 to release the retiral benefits in favour of the petitioner within the next eight weeks, failing which, the retiral benefits shall attract interest @ 12% per annum.

11. Petition is allowed in the aforestated terms.

**(Mrs. Vrushali V. Joshi, J.)      (Rohit B. Deo, J.)**

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