

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

WRIT PETITION NO. 5837 OF 2018

Madhuri Murari Madavi,
Aged about 45 years, Occ. Service presently
working as Chief Officer of Municipal Council
Narkhed R/o Narkhed, Tq. Narkhed, Dist. Nagpur

...Petitioner

// VERSUS //

1. The Divisional Commissioner and Regional
Director of Municipal Administration, Nagpur
Division, Nagpur

2. The Collector, Bhandara

... Respondents

Shri M.I.Dhatrak, Advocate for the petitioner.

Ms. Shamsi Haider, AGP for the respondent nos. 1 and 2.

CORAM : ANIL S. KILOR, J.

DATED : 23rd JUNE, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith. Heard finally
by consent of the parties.

2. The limited challenge to the order dated 20th July, 2018
passed by the Divisional Commissioner, Amravati under Section 318 of
the Maharashtra Municipal Councils, Nagar Panchayats and Industrial
Townships Act, 1965, (hereinafter referred as “the Act 1965”) issuing
direction to the District Administration Officer, Bhandara to proceed
against the Chief Officer, Municipal Council, Pauni for the irregularities

committed by him, under the provisions of the Act, 1965 as well as under the Maharashtra Civil Services (Discipline & Appeal) Rules 1979, is raised in this petition.

3. Admittedly, the impugned order dated 20th July, 2018 was the outcome of the order dated 22nd February, 2018 passed by the Collector under Section 308(1) of the Act, 1965 thereby suspending the resolution of the Municipal Council, withholding the increments of teachers. Thus, the issue before the Divisional Commissioner, under Section 318 was whether the resolution passed by the Municipal Council withholding the increments of teachers, was justifiable or not in the eyes of law. However, the Divisional Commissioner vide impugned order while holding in favour of teachers, action was directed to be taken by the District Administration Officer, Bhandara for irregularities committed by the petitioner, Chief Officer, Municipal Council, Pauni.

4. Learned Assistant Government Pleader failed to point out that any notice was served upon the petitioner before passing the impugned order, disclosing the intention of the Divisional Commissioner to proceed against the petitioner on the point of irregularities found by the Divisional Commissioner in the working of the petitioner.

5. In the circumstances, I have no hesitation to hold that the impugned order suffers from non observance of principles of natural justice and needs to be quashed and set aside. Accordingly, I pass the following order.

- i. The writ petition is allowed;
- ii. The impugned order dated 20th July, 2018 passed by the Divisional Commissioner, Nagpur Division, Nagpur is hereby quashed and set aside.

[ANIL S. KILOR, J.]