



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

WRIT PETITION (WP) NO. 7625 OF 2019

- 1) Smt. Pratibha Umeshrao Gaur, aged about 48 years, occ. Headmistress, Office address- Zilla Parishad Primary Middle School (boys), Tq. Tiosa Panchayat Samiti Tiosa District : Amravati.

.... Petitioner(s)

// VERSUS //

- 1) The learned Divisional Commissioner, Amravati Division, Amravati.
- 2) The Chief Executive Officer, Zilla Parishad, Camp. Amravati.
- 3) Teh Block Education Officer, (Enquiry Officer), Panchayat Samiti, Chandur Bazar, Tq. Chandur Bazar, District Amravati.
- 4) The Block Education Officer, Panchayat Samiti, Morshi, Tq. Morshi, District Amravati.

... Respondent(s)

Ms R. D. Raskar, Advocate for the Petitioner/s
Ms M.A. Barabde, AGP for the Respondent/State
Shri S.M. Bhangde, Advocate for the respondent Nos.2 to 4

**CORAM : ANIL S. KILOR, J.
DATED : 06.09.2023**

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent by the parties.
3. The order dated 18.02.2019 issued by Chief Executive Officer, Zilla Parishad, Amravati, directing to recover Rs.1,07,922/- and imposing punishment of stoppage of two increments permanently and the order dated 15.07.2019 passed by the Divisional Commissioner, Amravati rejecting the appeal and upholding the punishment, are under challenge in this writ petition.
4. The petitioner is presently working as 'Headmistress' after her promotion from the post of "Assistant Teacher". An enquiry was conducted against the petitioner on four charges relating to misappropriation, dereliction of duties, irregularities in purchasing glossary and vegetable, and not following instructions of the seniors.

5. After completion of the enquiry, the report was submitted by the Enquiry Officer, holding that Charge Nos.I and III are partially proved and Charge Nos. II and IV are proved.

6. After going through the statements of the witnesses recorded during the enquiry, none of the witnesses deposed against the petitioner and even before this Court the learned counsel for the respondent Nos.2 to 4 failed to point out any oral evidence led by the respondent Nos.2 to 4 against the petitioner.

7. Moreover, the Enquiry Officer, while holding that the Charge I and III are partially proved and Charge Nos.II and IV are proved, no reasons are recorded or no evidence is discussed to arrive at such a conclusion.

8. The Hon'ble Supreme Court of India in the case of *Kranti Associates (P) LTD. V. Masood Ahmed Khan*¹, has held thus:

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

¹ (2010) 9 SCC 496

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior Courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice. i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is

impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija vs. Spain EHRR, at 562 para 29 and Anya v. University of Oxford, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

9. In view of the above well settled principles of law, every quasi-judicial order must be supported by reasons, and considering the impugned order in the present matter, it is evident that the Chief Judicial Officer before imposing punishment did not

consider the enquiry report in right perspective and in mechanical manner imposed the punishments.

10. In the circumstances, I am of the opinion that the findings recorded by the Inquiry Officer in the inquiry proceeding are perverse and without evidence. The punishments imposed on the basis of such inquiry report also vitiate. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The order dated 18.02.2019 passed by Chief Executive Officer, Camp. Amravati, is hereby quashed and set aside and consequently, the order dated 15.07.2019 passed by Divisional Commissioner, Amravati in appeal, is also quashed and set aside for the above reasons.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]