



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

58 WRIT PETITION NO. 14753 OF 2023

Chandrakant Dinkar Nehate,
Age : 63 years, Occu : Retired,
R/o Shreyas Residency,
Ganeshwadi, Jalgaon,
Tal. & Dist. Jalgaon.

...PETITIONER

VERSUS

1. State of Maharashtra.
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-400001.
2. Jalgaon City Municipal Corporation.
Through its Commissioner/ Dy.
Commissioner, having its office at
MG Road, Nehru Chowk, Jalgaon-425001.
3. The Accounts Officer,
Jalgaon Municipal Corporation, having its
office at MG Road, Nehru Chowk,
Jalgaon-425001.

...RESPONDENTS

...
Shri Yogesh H. Jadhav, Advocate for the Petitioner.
Shri V.S. Badakh, AGP for Respondent No.1/State.
Shri L.V. Sangit, Advocate for Respondent Nos.2 and 3.

...
**CORAM : RAVINDRA V. GHUGE
&
R.M. JOSHI, JJ.**

DATE :- 22nd April, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard

finally by the consent of the parties.

2. We have heard the learned Advocates for the respective sides. We have perused the petition paper book and more particularly, the affidavit in reply filed by the Deputy Commissioner, General Administration Department, Jalgoan City Municipal Corporation, dated 29.01.2024.

3. The undisputed position is that the Petitioner was served with a charge sheet and a departmental enquiry was conducted while he was in service. The enquiry report dated 07.11.2016, exonerated the Petitioner from all the charges levelled upon him. He superannuated on 22.02.2016 from the post of the Assistant Town Planner. The report of the enquiry was delivered after his superannuation, which cannot be faulted as the enquiry was commenced much prior to his superannuation. Nevertheless, the Petitioner has been exonerated of all the charges levelled upon him.

4. What is surprising is that the Municipal Corporation has initiated a fresh departmental enquiry against the Petitioner by order dated 28.05.2021 bearing Outward No.340/2021. The learned Advocate for the Municipal Corporation is unable to

point out from the pleadings and the affidavit in reply that the Municipal Corporation has relied upon any specific provision by which, firstly, a second enquiry could be initiated after the Petitioner has been exonerated from the first enquiry and secondly, whether, such a fresh enquiry can be initiated after five years of his retirement. Apparently, the answer to both these issues, is in the negative.

5. **This Writ Petition is, therefore, allowed.** The pending enquiry against the Petitioner along with the charge sheet is quashed and set aside. The Petitioner shall be entitled for all retiral and pensionary benefits, as the same have still not been paid with interest component as is statutorily provided. Such payment shall be made within 90 (ninety) days from today. Since regular pension is being paid, the learned Advocate for the Petitioner submits that no orders are required on that aspect.

6. Rule is made absolute in the above terms.

kps (R.M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)