



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 10484 OF 2019

MADHUKAR ANANDRAO PAHURKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. C.K. Shinde Advocate for Petitioner.
Mr. V.M. Jaware, A.G.P. for Resp. No.1.
Mr. Y.R. Marlapalle Advocate for Resp. No.3.
...

CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.

DATE : 12th JANUARY 2024

ORDER :

1. After hearing both sides, learned Advocate for the petitioner points out Rule 21(2)(iv) to the Maharashtra Secondary and Higher Secondary Regulations, 1977 which stipulates an appeal against the penalty inflicted by the Chairman, to the Executive Council. Learned Advocate for the petitioner now seeks withdrawal of this petition to file the appeal under the above provisions.
2. Learned Advocate Mr. Marlapalle for respondent No.3 strongly objects. He submits that the petitioner was aware about

the provision, yet he approached this Court belatedly and taking into consideration the prayers those have been made, the petitioner has made up his mind to approach this Court and for that respondent No.3 need not be burdened.

3. It is to be noted that it appears to be a long driven proceedings for the petitioner. In view of the raid by the Anti Corruption Department, the disciplinary proceedings were initiated against him and even the criminal case proceeded before the learned Special Judge under the Prevention of Corruption Act. The petitioner was held guilty and convicted. But thereafter, this Court acquitted the petitioner by allowing his appeal. In the meantime the petitioner has suffered, initially suspension and after the conviction, termination from service. Then he approached this Court by filing Writ Petition No.4328 of 2016. It came to be decided on 17th December 2018 in which it is specifically held that the impugned order imposing punishment upon the petitioner of dismissing him from service is set aside. Thereafter this Court gave liberty to respondent No.3 to issue second show cause notice and thereafter the disciplinary authority was directed to take decision by giving an opportunity of hearing to the petitioner. Once again the petitioner

approached this Court with the Review Application i.e. Review Application No.28 of 2019 and by order dated 26th April 2019 the said Review Application came to be dismissed.

4. The second show cause notice was given on 5th January 2019 and it was replied on 21st January 2019 and thereafter the impugned order was passed on 16th July 2019 confirming the decision of termination of the petitioner. It is signed by the Chairman of the Board as contemplated under Rule 21(2)(iv) to the Maharashtra Secondary and Higher Secondary Regulations. Definitely an appeal has been provided which would lie before the Executive Council. Certainly the petitioner ought to have knocked the doors of the Executive Council in appeal. But taking into consideration the fact that there is some order in his favour acquitting him of the charges, we are of the opinion that he should be allowed to exhaust the remedy of said appeal.

5. In view of the same, the Writ Petition stands disposed of with the following observations that if the appeal is filed by the petitioner within two weeks from today, it be decided by the Executive Council within a period of three months.

6. The time consumed by the petitioner in prosecuting this Writ Petition should be considered by the Executive Council, for entertaining the appeal.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN24