



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

WRIT PETITION NO.4127/2024

Jaykrushna Ajabrao Khadse Vs. Zilla Parishad, Amravati and another.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. C.D.Gawande, Advocate for petitioner.
Ms. N.P.Mehta, Addl. GP for respondent no.1.
Mr. J.B.Kasat, Advocate for respondent no.2.

CORAM : NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.
DATE : AUGUST 26, 2024.

P.C.

Heard.

2. The petition is directed against an order of suspension issued against the petitioner on 19th June, 2024.
3. The said order is based on the decision of incorrect hoisting of the flag on Maharashtra State Day.
4. The respondent-Chief Executive Officer of the Zilla Parishad has suspended the petitioner, in view of the provisions of Rule 3 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 (for short "Rules").
5. The perusal of the Rule 12 of the Rules contemplates an appeal before the Chief Executive Officer of the Zilla Parishad.
6. However, in our opinion, such remedy of an appeal is redundant for the reason that the order of suspension itself is passed by the Chief Executive Officer of the Zilla Parishad.

7. It has come on record through reply placed before us that the disciplinary enquiry is contemplated against the petitioner.

8. The fact remains that in case if the enquiry is not completed within the stipulated period of 90 days, the order of suspension can be revoked.

9. Apart from above, the act of incorrect hoisting of flag, which is duly admitted by the petitioner, however, the reasons cited for such mistake is committed by the petitioner is keeping disabled and is having poor vision.

10. In the aforesaid backdrop, it is the contention of Mr. Gawande that once the order does not speak of any other issues and the petitioner having admitted mistake, which could be justified from the state of his physical ability, the order of suspension needs to be revoked.

11. The fact remains that the order of suspension was passed on 19th June, 2024.

12. The reply placed on record contemplates that an enquiry is being proposed against the petitioner.

13. In the aforesaid background, we deem it appropriate to dispose of this petition by directing the petitioner to approach before the Chief Executive Officer, in case if the enquiry is not concluded within 90 days from the date of suspension, in view of the law laid down by the Apex Court in the matter of **Ajay Kumar Choudhary Vs. Union of India through its Secretary** reported in **2015 AIR SCW 2520**.

14. Once such request is made by the petitioner, the same be considered within a period of four weeks from the date of the application.
15. The petition stands partly allowed in the above terms. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Mukund Ambulkar