



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1073 OF 2024

Shaikh Wahidahemad Shabbirahemad,
Age : 49 years, Occ. : Service,
R/o. Aayesha Colony, Latur,
C/o Patel Palace, Latur, Tq. Dist. Latur

... PETITIONER

...VERSUS...

1. The State of Maharashtra
Through its Secretary
Rural and Water Conservation Department,
Mantralaya, Mumbai
2. The Divisional Commissioner (Revenue)
Aurangabad Region, Aurangabad
3. The Chief Executive Officer
Zilla Parishad, Latur
4. The Education (Primary) Officer,
Zilla Parishad, Latur

... RESPONDENTS

Mr. S. G. Munde, Advocate for the Petitioner
Mr. V. M. Chate, AGP for Respondent Nos. 1 & 2
Mr. P. R. Tandale, Advocate for Respondent Nos. 3 and 4

CORAM : ROHIT W. JOSHI, J.
DATE : JULY 16, 2025

ORAL JUDGMENT:

1. Vide order dated 31.08.2018 passed by the Chief Executive Officer, Zilla Parishad, Latur, one annual increment of the petitioner was withheld permanently on account of misconduct of providing incorrect/false information for intra-district transfer. The petitioner

had preferred an appeal challenging the said order before the Additional Divisional Commissioner, Aurangabad, which came to be dismissed vide order dated 16.03.2021. The present petition is filed challenging the said orders.

2. The contention of the learned counsel for the petitioner is that order imposing punishment of withholding one increment on permanent basis, is a major penalty and therefore, procedure as contemplated under Rule 6 of the Maharashtra Zilla Parishads and Panchayat Samitis (Discipline and Appeal) Rules, 1964, ought to have been followed before the impugned punitive action. It is contended that the said procedure was not followed, as a consequence of which the impugned orders are liable to be quashed. The learned advocate has placed reliance on judgment dated 09.07.2019 passed in Writ Petition No. 8421 of 2018 and other connected matters in support of his contention.

3. In the said matter, the petitioners had allegedly provided incorrect information relating to policy decision dated 27.03.2017 framed by the State of Maharashtra for posting of husband and wife together. It was found that the information provided by the employees was incorrect and consequently punishment of stopping

one increment on permanent basis was imposed. In those matters, inquiry as contemplated under Rule 6, was not conducted by the concerned Zilla Parishads. This Court has held that since the punishment of withholding one increment on permanent basis is a major penalty, it was necessary to hold inquiry as contemplated under Rule 6. Finally, the order passed by the Chief Executive Officer of Zilla Parishad, as also the order passed by the Appellate Authority came to be quashed and set aside, granting liberty to the Zilla Parishad to take appropriate action against the delinquents, by following due process of law.

4. The facts of the present case are also identical. In the present case also, the allegation against the petitioner is that for the purpose of seeking transfer as under Government Resolution dated 27.02.2017, he had provided incorrect information and had obtained an order of transfer by misleading the authority. The Block Education Officer, Panchayat Samiti, Ausa had called an explanation from the petitioner with respect to the said misconduct and found that the explanation offered by the petitioner was not satisfactory. Impugned order dated 31.08.2018 came to be passed by the Chief

Executive Officer, imposing punishment of withholding one increment on permanent basis.

5. Aggrieved by the said order dated 31.08.2018, petitioner preferred appeal under Rule 14 of the Discipline and Appeal Rules, which came to be dismissed by the Additional Divisional Commissioner vide order dated 16.03.2021.

6. The learned counsel for the respondent - Zilla Parishad contends that the impugned action is taken in accordance with principles of natural justice, inasmuch as explanation was called from the petitioner and after considering the explanation, the impugned order withholding one increment on permanent basis is passed. He contends that procedure followed by the Zilla Parishad, is in accordance with the procedure prescribed under circular dated 28.06.2018 issued by the Government, the circular on which reliance is placed by the learned counsel for the respondent cannot have the effect of amending statutory rules. Perusal of Rule 6 of the Discipline and Appeal Rules will demonstrate that before imposing any major penalty definite charges have to be framed against the employee. The charges are required to be served on the employee along with statement of allegations. The employee should be

granted opportunity to file a written statement of defence. He should also be allowed to take inspection of documents. The disciplinary authority can nominate any person to present the case in support of the charges and likewise the employee is also allowed to take assistance of another employee of Zilla Parishad for presenting his defence. Opportunity of cross-examination of witnesses examined by disciplinary authority should be granted. Likewise, employee is also required to be granted opportunity to lead independent evidence. The inquiring authority is required to prepare a report recording findings on the charges, and then the disciplinary authority can take decision by recording finding on each charge. All this procedure is not followed in the present matter. Order is passed simply by issuing a show cause notice and calling explanation of the petitioner. Thus the procedure prescribed under Rule 6 is not followed.

7. The controversy in the matter is already covered by judgment of this Court in Writ Petition No. 8421 of 2018. In that view of the matter, the impugned order dated 31.08.2018 issued by the Chief Executive Officer, Zilla Parishad, Latur, and order dated 16.03.2021 passed by the Divisional Commissioner dismissing the

appeal arising out of the said order are liable to be quashed and set aside, and the same are accordingly quashed and set aside.

8. However, the respondent - Zilla Parishad is at liberty to take appropriate action against the petitioner, in accordance with law by following the prescribed procedure.

9. Writ petition is **disposed of**, accordingly.

10. Pending civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]