



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5788 OF 2021

Madhukar Babulal Pawar

....Petitioner

VERSUS

The State of Maharashtra & another

.....Respondents

Mr. R. P. Adgaonkar, Advocate for the Petitioner.

Mr. K. K. Naik, AGP for the State.

Mr. S. R. Patil, Advocate for Respondent No. 2.

**CORAM : KISHORE C. SANT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 9th DECEMBER, 2025.

PER COURT :

1. Heard learned Advocate for the Petitioner, learned Advocate for Jalgaon Municipal Corporation and learned AGP for the State.

2. Hear a challenge is raised to the orders passed by Respondent No. 2/Jalgaon Municipal Corporation, dated 29.08.2016 and 21.09.2016. By order dated 29.08.2016, Respondent No. 2 has directed to deduct the amount from the pension of the Petitioner to the extent of 3% with permanent effect. Another order dated 21.09.2016 is passed in view of Rule 27(1) of the Maharashtra Civil Services (Pension) Rules, 1992 and it is stated therein that with the

acts of the Petitioner and other persons, some loss is caused to the Municipal Corporation.

3. Learned Advocate for the Petitioner submits that when the Petitioner was working as a Superintendent in Women and Child Welfare Department, certain schemes were implemented. The amount was paid on such schemes. Thereafter, the department found that some losses are caused to the Municipal Corporation while implementing the scheme. The amount was paid on items which were not provided under the scheme. Some programs like workshop etc. were to be conduct under the scheme. However, it is alleged that no such workshop was conducted. Some amount was paid on the program of Makar Sankranti, however, it is allegedly beyond the scheme. He further submits that the Women and Child Welfare Department conducted the enquiry without participation of the Petitioner and other employees. No notice of enquiry was issued to them and prior to conduct of the enquiry, no charge sheet was supplied to them. He further argued that there is no enquiry conducted by the Corporation itself and still the action is taken. He further relies upon Rule 27(2)(b)(ii) to support his contention that no enquiry can be conducted in respect of the event which has taken

place more than 4 years before institution of the enquiry. He, thus submits that the Petition deserves to be allowed. The entire action is without any authority under the law and the enquiry is in violation of the principles of natural justice. He, therefore, prays for allowing the Petition.

4. Learned Advocate Mr. Patil vehemently opposed the Petition. He submits that various discrepancies were found in the accounts maintained by the Women Welfare Department. The amount was paid on the items which were not provided under the scheme. No proper account was maintained. The purchases were done without following tender process. No proper record is found of giving benefits of the scheme to the members for whom the scheme is implemented. The material which was purchased is not found. Total amount of Rs. 7,03,155/- was either spent on the items which were not provided under the scheme or no material was found to be purchased. After completion of enquiry, a notice was given to the Petitioner and it is only thereafter the action is taken. He, thus, prays for dismissal of the Writ Petition.

5. Relevant portion of Rule 27 of Maharashtra Civil Services (Pension) Rules, 1982 reads thus :-

27. Right of the Government to withhold or withdraw pension :-

(1) [Appointing authority may], by order in writing, withhold or withdraw a pension or any part of it, whether permanently or for a specified period, and also under the recovery from such pension, the whole or part of any pecuniary loss caused to Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement :

Provided that the Maharashtra Public Service Commission shall be consulted before any final orders are passed in respect of officers holding posts within their purview :

Provided further that where a part of pension is withheld or withdrawn, the amount of remaining pension shall not be reduced below the minimum fixed by Government.

(2) (a) The Departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government Servant, be deemed to be proceedings under

this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.

(b) The Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment -

(i) shall not be instituted save with the sanction of [appointing authority]

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and at such place as the Government may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

6. On hearing parties, this Court finds that the enquiry was held in respect of the events that took place between 2008 till 2011. The enquiry started in the year 2014. Report of the enquiry was submitted in October 2015. It is seen from the record that no opportunity was given to the Petitioner to participate in the enquiry. Action is taken on the basis of report of the enquiry which is clearly in violation of the principles of natural justice. After receipt of the

report, no independent departmental enquiry was undertaken by the Respondents. This Court, thus, finds that the entire action is arbitrary and without following proper procedure. The action, therefore, deserves to be quashed and set aside.

7. In view of the above, Petition is allowed in terms of prayer clauses 'B' and 'E'. Petition stands disposed off. No order as to costs.

(ABASAHEB D. SHINDE)
Judge

(KISHORE C. SANT)
Judge

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