

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

924 WRIT PETITION NO. 4296 OF 2022

Subhash Ratan Gawale

VERSUS

The Zilla Parishad Through Its Chief Officer And Others

...

Mr. Subodh P. Shah - Advocate for the Petitioner

Mr. Rakesh N. Jain – Advocate for Respondent Nos. 1 and 3

...

**CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.**

DATED : 12TH JUNE, 2025

PER COURT : -

1. By this Writ Petition under Article 226 of the Constitution of India, the Petitioner, who was in the employment of the Respondent – Zilla Parishad, has made the following prayers:

- “A] The Hon’ble High Court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ and thereby quash and set aside the charge sheet dated 06.08.2020 and charge sheet dated 15.03.2021 issued to the petitioner and the consequent departmental inquiry.*
- B] The Hon’ble High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of writ and thereby direct the Respondents to release regular pension to the petitioner.*
- C] The Hon’ble High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of writ and thereby direct the Respondents to grant other retiral benefits i.e. gratuity, leave encashment and general provident fund and group insurance etc. to the petitioner.*
- D] Pending hearing and final disposal of the present Writ Petition, the Hon’ble High Court may be pleased to stay the further proceedings of the departmental inquiry initiated against the petitioner pursuant to the two charge sheets dated 06.08.2020 and 15.03.2021.*

- E] Pending hearing and final disposal of the present Writ Petition, the Hon'ble High Court may be pleased to direct the Respondents to grant benefits of leave encashment, provident fund, gratuity and group insurance.*
- F] Ad interim relief in terms of prayer clause "D" and "E" may kindly be granted.*
- G] Any other just and equitable relief to which the Petitioner may be found entitled, may kindly be granted."*

2. It is submitted by the learned Advocate for the Petitioner that, the Petitioner was Charge-Sheeted for Departmental Enquiry on three (3) charges. He submits that, during the pendency of the enquiry, the Petitioner retired from service. He submits that, by the Show-cause Notice dated 27.02.2023, the Petitioner was exonerated of Charge No.1, whereas the Enquiry Officer held that the remaining Charges were established against the Petitioner. By the said Show-cause Notice, the punishment proposed is 30% reduction in pension for a period of five (5) years. He submits that, since the present Petition is pending, no final orders are passed by the Disciplinary Authority. He submits that, once the Petitioner retired from service, the Maharashtra Civil Services (Pension) Rules, 1982 [hereinafter referred to as 'Pension Rules'] comes into picture and, therefore, Rule 27 of the said Rules was required to be followed by the Disciplinary Authority, which has not been done in the case in hand. He submits that, a Single Bench of this Court in *Chairman/ Secretary of Institute of Shri Acharya Ratna Deshbhushan Shikshan Prasarak Mandal, Kolhapur and another vs. Bhujgonda B. Patil* [2003(3) Mh.L.J. 602], has interpreted Rule 27 of the Pension Rules.

He submits that the enquiry be quashed and set aside due to violation of Rule 27 of the Pension Rules and the Petition be allowed.

3. The Petition is opposed by the learned Advocate for Respondent Nos. 1 and 3. He submits that, the enquiry was initiated when the Petitioner was in service, and during the pendency of the enquiry the Petitioner retired. He submits that, there is no Rule prohibiting the employer from continuing the Departmental Enquiry which was initiated when the Petitioner was in service. He submits that, the said Judgment cited by the learned Advocate for the Petitioner is distinguishable on facts and not applicable to the case in hand. He submits that, since a Show-cause Notice has now been issued to the Petitioner after conclusion of the enquiry, there is no need for interference, and the Petition be dismissed.

4. We have heard both the sides.

5. Perusal of Rule 27 of the Pension Rules shows that, it nowhere provides that the Departmental Enquiry, which was initiated while the Employee was in service, cannot be continued post-retirement. On going through the aforesaid Judgment relied upon by the learned Advocate for the Petitioner shows that, the employee therein had retired from the service and the observations were made on the basis of the submissions made in that context. There is no dispute that the said

Judgment is in the matters where the punishment was imposed on the employee. That is not the case at hand. Here, the very initiation of the enquiry is challenged. In absence of any prohibition to the Respondents from continuing the said Departmental Enquiry post-retirement, we do not see any reason to interfere with the Departmental Enquiry which is not yet culminated in the final order.

6. Undisputedly, the Respondents have issued final Show-cause Notice to the Petitioner. The Petitioner is at liberty to respond to the said Show-cause Notice. If the Disciplinary Authority passes any adverse order against the Petitioner in the said Departmental Enquiry, the remedy available in the Rules can always be availed by the Petitioner. It is made clear that, the above submissions made by the learned Advocate for the Petitioner will not come in the way of the Petitioner while challenging the order of punishment, if any. In this view of the matter, the Petition is dismissed.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE