



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

WRIT PETITION NO. 5036 OF 2018

Usha Vithalrao Chaudante

VERSUS

The Additional Divisional Commissioner And Others

Mr. A. N. Nagargoje h/f Mr. V. S. Panpatte, Advocate for Petitioner

Mr. S. B. Pulkundwar, Advocate for Respondent Nos. 2 and 3

Mr. K. S. Hoke Patil, AGP for Respondent/State

CORAM : R. M. JOSHI, J.

DATE : 20th AUGUST, 2025

PER COURT :-

1. This petition takes exception to the order dated 12.02.2018 passed by the Appellate Authority i.e., Additional Divisional Commissioner, Aurangabad in DB/Appeal/Sale/201/2016 of confirming the punishment of withholding of one increment permanently.

2. Learned counsel for Petitioner submits that under the provisions of Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 (for short “**Rules of 1964**”) the withholding of two increments permanently amounts to major punishment and the same cannot be imposed without conducting appropriate departmental inquiry. It is his submission that admittedly, in this case, no departmental inquiry has been conducted. Hence,

order passed by Additional Divisional Commissioner and order passed by Chief Executive Officer (for short “CEO”) be set aside . To support his submissions, he placed reliance on the judgment of Division Bench of this Court in case of **Narendra s/o Motiram Bodkhe vs. Additional Commissioner, Nagpur and others 2006 (5) Mh.L.J. 229.**

3. Learned counsel for Zilla Parishad attempted his best to support the impugned order.

4. There is no dispute about the fact that no inquiry has been conducted against the petitioner before imposition of the punishment against him. The order passed by CEO dated 05.03.2015 indicates that two increments of the petitioner were withheld permanently.

5. The imposition of punishment of withholding of two increments permanently is a major penalty and in view of Rule 4 of the Rules of 1964 and said major penalty could not have been inflicted without conducting departmental inquiry. Present case therefore, is squarely covered by the Judgment of Division Bench of this Court in case of Narendra (cited supra).

6. In view of the above, order passed by the Additional Divisional Commissioner, Aurangabad in appeal cannot sustain. In view of the settled

position of law, an Appellate Authority ought to have set aside entire order passed by CEO. Thus, order passed by CEO dated 05.03.2015 stands set aside.

7. Hence, petition stands allowed.

(R. M. JOSHI, J.)

bsj