



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO. 898 OF 2022

VIJAYKUMAR SHRIRAM GAVHANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. S. K. Mathpati, Advocate for the Petitioner
Mr. S. S. Manale, Advocate for Respondent No. 4.
Mr. S. G. Sangle, Addl. GP for the Respondent/State

CORAM : R. M. JOSHI, J.

DATE : 4th OCTOBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the orders dated 05/05/2016, whereby the Petitioner was punished by withholding of two increments temporarily and order dated 23/06/2017, whereby his request for treating the period of suspension of duty is rejected.
3. The facts which led to the filing of this Petition can be narrated in brief as under:-
 - (i) The Petitioner is appointed as Assistant Teacher in Zilla Parishad Primary School, Zari (BK), Tq. Chakur, District Latur. He came to be transferred to Zilla Parishad Priimary School, Hanumant Jawalga and Masnerwadi. He was thereafter promoted as Trained Graduate

Teacher and further came to be transferred. The Petitioner claimed that he has rendered 16 years unblemished service as a primary teacher. It is further case that his parents have political background and contested the election of Grampanchayat. It is alleged by the Petitioner that out of the political rivalry, false complaint came to be made against him. It was alleged in the said complaint about the grievance made by the girls in the school against the Petitioner. It is his case that said complaint since was false, was withdrawn on the next day of its filing. It is his submission that in spite of the said fact, the Petitioner was suspended by order dated 16/07/2015. Thereafter, charge-sheet came to be issued against him making allegations in respect of three charges including the complaint which was withdrawn earlier. This charge-sheet was responded by the Petitioner by reply dated 27/01/2016. Without conducting any inquiry, minor penalty came to be imposed upon the Petitioner withholding two increments temporarily by order dated 05/05/2016. Later on Application was moved by the Petitioner for treating his period of suspension as on duty. By order dated 23/06/2017, this Application came to be rejected and he was asked to apply for leave. These orders were challenged unsuccessfully in Appeal, hence, this Petition.

4. Learned Counsel for the Petitioner submits that the facts on the record clearly indicates there is reason to believe that a false

complaint was lodged against the Petitioner and on 26/06/2015 however, the same was withdrawn on the next day i.e. on 27/06/2015. It is his submission that once the said complaint was withdrawn, there remain no reason for the Management to suspend him from 16/07/2015. It is his submission that even if it is accepted that minor penalty is imposed, such penalty cannot be imposed unless the Rule 7 of Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 (for short 'Rules of 1964') is complied with. To support his submission he placed reliance on the judgment of Co-ordinate Bench of this Court in case of ***Dewanand s/o Shankarrao Phulware Versus The State of Maharashtra and others*** in ***Writ Petition No. 15783/2023***. It is further argued that once it is held that the charge in respect of the allegations made by the girls students was false, there remain no justification for suspension of the Petitioner and as such the Petitioner needs to be treated on duty during the relevant period.

5. Learned Counsel appearing on behalf of the Zilla Parishad sought to support the impugned orders. It is his submission by referring to the relevant rules that for the purpose of imposing minor penalty, the procedure as contemplated by Rule 6 is not required to be followed. It is his further submission that the show cause notice and charge-sheet was issued to the Petitioner and after considering his explanation/reply order impugned came to be passed withholding two increments temporarily

which amounts to minor penalty. It is submitted that the Petitioner has admitted the charge No.3 and as such there is no reason or justification to cause interference in the said order. It is argued that since serious allegations were made against the Petitioner and news was flashed in the newspaper in this regard and hence, it was necessary for the Management to suspend the Petitioner. It is his submission that even if one of the charge is said to be proved and punishment is imposed against the Petitioner, there would be no justification to treat the period of suspension as on duty.

6. In order to appreciate the submission sought to be made across the bar it would be relevant to take note of certain admitted facts which are appearing from the record. The Petitioner was working as Teacher in Zilla Parishad School and has rendered 16 years from service. Admittedly, prior to the incident in question, there was no other complaint against the Petitioner and his record was unblemished. The documents filed on record indicate that on 26/06/2015, a complaint was lodged making allegations against the Petitioner in respect of the grievance made by the girls students in the school. Perusal of the said complaint indicates that though the complaint is said to have been filed by the parents of the girls as well as the villagers, it does not bear signature of any one. Pertinently, on the next day i.e. 27/06/2015, complaint came to be withdrawn with specific statement that there is no

substance in the said complaint and that nothing can be attributed against the Petitioner. Not only at relevant time but even before this Court the Zilla Parishad does not claim that there was any substance in the complaint made against the Petitioner. Had it been not so, there would be no justification for the Zilla Parishad not to conduct an inquiry against the Petitioner and to impose major penalty against him if the charge was proved. The fact of non conducting of the inquiry by the Zilla Parishad itself indicates that even the Management of the Zilla Parishad and the School was convinced at all time about falsity of complaint in question.

7. Perusal of the charge-sheet indicates three charges, first in respect of the alleged grievance of the girls students, the second is about the publication of the news in this regard and thereby the school being defamed. As far as these two charges are concerned, admittedly, there is no substance in the first charge and as such no action was taken against the Petitioner. In so far publication of news is concerned, it is impossible to hold that any person would publish news to defame himself in public. Thus, the Petitioner cannot be said to be held responsible for the publication of the said news. On the contrary this supports the case of the Petitioner that owing to the political rivalry, Petitioner was sought to be involved in a false complaint.

8. Now remains the third charge against him of negligence in

the duty. In this regard specific response is given by the Petitioner stating that inadvertently the year remained to have been mentioned in the record. He sought apology for the same. With regard to the presence of the Petitioner in a conference, he specifically states that he attended the same, however, due to inadvertence, the signature of the head was not obtained.

9. Now question arises as to whether this admitted fact on the part of the Petitioner could be considered as misconduct which would attract the punishment even of withholding of two increments temporarily. Perusal of the allegations so also the admission of the Petitioner indicates that inadvertently the year was left to have been mentioned in record. There is nothing to indicate that the contention of the Petitioner of attending the said conference is false. In this regard it is pertinent to take note of the order impugned, wherein the Chief Executive Officer does not deal with the response/explanation of the Petitioner in any manner and simply makes a statement as the explanation is not acceptable. Perusal of the Rule 7 indicates that even for the purpose of imposing minor penalty the reply of the employee needs to be considered and reply is found unsatisfactorily, by recording reasons therefor even minor penalty could be imposed. Perusal of the impugned order does not indicate so.

10. Though ordinarily in case of the failure on the part of the Disciplinary Authority to record reason, the appropriate course to adopt would be to relegate the matter back to Disciplinary Authority for taking decision afresh. In the instant case, however, the allegations against the Petitioner is of year 2016, the present Petition is of year 2022. Prima facie this Court has found substance in the contention of the Petitioner that this could be a case of false involvement of the Petitioner owing to the political rivalry, this Court finds no reason to relegate the matter back to the Disciplinary Authority for taking decision afresh instead imposition of penalty of censure would be adequate punishment. Hence, the order passed by the Chief Executive Officer stands modified. The Petitioner is punished with the minor penalty of censure and same be recoded in the service book of the Petitioner.

11. In so far as, the claim of the Petitioner of suspension of period from 16/07/2015 to 05/05/2016 to be treated as on duty is concerned, when admittedly there was no substance found in the complaint against the Petitioner in respect of the girls students and hence no inquiry was made in respect of the same. Thus, the only allegation remains against him is in respect of the inadvertent act on his part of not taking entry in the record. For that reason, there could be no justification for his suspension. In such circumstances, his representation dated 27/10/2016 ought to have been accepted by the

Authorities. As a consequence thereof, the order dated 23/06/2017 is set aside. The period of suspension from 16/07/2015 to 05/05/2016 be treated as on duty. The Petitioner would be entitled for all monetary benefits arising out of setting aside of these orders impugned.

12. Petition is allowed in afore stated terms.

(R. M. JOSHI, J.)

ssp