



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5942 OF 2024

DR. BABASAHEB AMBEDKAR MARATHWADA UNIVERSITY, AURANGABAD
AND ANOTHER
VERSUS
DR. UJJWALA P. BHADANGE

Mr. S. S. Agrawal, Advocate for the Petitioners
Mr. C. V. Dharurkar, Advocate for the Respondent

CORAM : R. M. JOSHI, J.

DATE : 15th SEPTEMBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the judgment and order dated 08/03/2024 passed by the Presiding Officer, University and College Tribunal, Aurangabad in Appeal No. BAMU 02/2023 setting aside the order of removal of the Respondent-original Appellant from service and remitting the matter back to Petitioners- original Respondent Nos.1 and 2 for conducting fresh departmental inquiry strictly in accordance with Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 with further direction of payment of subsistence allowances as per the Rules.
3. At the outset learned Counsel for the Respondent has drawn attention of the Court to the fact that though the present Petition has

been filed taking exception to the order dated 08/03/2024, the order passed by the Tribunal is practically accepted by the Petitioner and that appointment of retired District and Sessions Judge is done for conducting the departmental inquiry against the Respondent. To support this submission reference is made to the order dated 06/06/2024 passed by Secretary of the Petitioner-University.

4. Learned Counsel for the Petitioner accepting above fact of appointment of Inquiry Officer has sought to take exception to the impugned order on the ground that principles of natural justice were followed during the inquiry conducted against the Respondent. It is his submission that having regard to the fact that the original complainant was pressurized by the Respondent and her husband, no further time could have been granted to the Respondent to cross-examine the said complainant. On the contrary, learned Counsel for the Respondent has drawn attention of the Court to the fact that the complainant came to be examined on the same day i.e. the day on which the request for appointment of the representative was rejected by the Inquiry Committee. It is his submission that this fact clearly indicates that the principles of natural justice were not followed and the opportunity of proper defence has not been given to the Respondent. He also drew attention of the Court to the findings recorded by the Tribunal with regard to the manner in which the inquiry is conducted.

5. Perusal of the record indicates that serious allegations are made by the complainant against the Respondent and inquiry was conducted against her. Needless to say that more the allegations as serious they require concrete proof off course, such proof in the departmental inquiry however, would be on preponderance of probability and not strict proof of a fact as contemplated in a criminal proceeding.

6. There cannot be any dispute with regard to the fact that Respondent requested for the appointment of defence representative. This request was refused on 04/08/2022. On the same day, the complainant was examined and the request made by the Respondent for time to cross-examine her was refused. It is thus clear that she was not given a chance to seek appointment of another defence representative. Moreover, though it is sought to be argued now on behalf of the Petitioner that the said request was rejected in view of the fact that the complainant was pressurized by the Respondent, perusal of the inquiry proceeding does not indicate so. Since the request was not rejected on that ground, it cannot be permitted now for the Petitioner to supplant any additional reason for refusal to grant time to cross-examine the complainant. In any case needless to say that the said witness was vital for proof of the alleged misconduct against the Respondent and hence fair opportunity ought to have been granted to

the Respondent to cross-examine this witness including representation by defence representative. As recorded above, request of the appointment of defence representative came to be refused on the same day and therefore, Respondent had no chance even to make request for engaging another defence representative in accordance with the Rules. This undoubtedly has resulted into causing of miscarriage of justice as the Respondent denied fair opportunity to defend herself.

7. The learned Tribunal has rightly taken into consideration said aspect so also the other facts and has set aside order of termination. The Tribunal, however, ought to have directed the inquiry to be conducted from the stage at which the principles of natural justice are denied.

8. The Respondent is denied opportunity of being represented by defence representative and thereafter she was denied fair and proper opportunity to cross-examine complainant. The inquiry therefore, ought not to have been directed to be conducted from the stage of appointment of defence representative and from the stage of cross-examination of the first witness i.e. complainant and not de-novo.

9. In view of the above, the impugned order deserves to be modified, it is accordingly modified as under:-

(i) The departmental inquiry stands remitted back for

conducting the same from the stage of appointment of the defence representative and thereafter from the stage of the cross-examination of the complainant.

(ii) Respondent is permitted to move an Application for appointment of defence representative and the Inquiry Officer/Committee to decide the same in accordance with the Rules applicable to the parties.

(iii) Reasonable opportunity be provided to the Respondent to enable her or her defence representative to cross-examine complainant and other witnesses examined by the Management.

(iv) The inquiry be concluded within a period of six (06) months from today.

(v) The Rules with regard to the payment of subsistence allowance to be complied with strictly.

(vi) Rest of order passed by Tribunal is confirmed.

10. Petition stands allowed in above terms.

(R. M. JOSHI, J.)

ssp