



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

WRIT PETITION NO. 15584 OF 2019

Ramesh Haribhau Davkhar

.. Petitioner

Versus

The State Of Maharashtra And Others

.. Respondents

Mr. Yuvraj Kakde, Advocate h/f Mr. Niteen V. Gaware, Advocate for the Petitioner.

Mr. G. O. Wattamwar, AGP for Respondent Nos. 1 to 3.

Mr. P. P. Kothari, Advocate for Respondent No. 4.

CORAM : KISHORE C. SANT, J.

DATE : 14th NOVEMBER, 2025.

PER COURT :-

1. Heard. By consent of the parties, taken up for final disposal at the stage of admission.

2. The present petitioner was working as a Gramsevak with Group Grampanchayat, Gopalpur, Dighi and Bhelimpalgaon from Taluka Newasa, District Ahmednagar. Respondent No. 1 is the State. Respondent No. 2 is the Hon'ble Minister whose order is under challenge. Respondent No. 3 is the Divisional Commissioner, Nashik who passed an order in the appeal.

Respondent No. 4 is the Chief Officer of Zilla Parishad, Ahmednagar who passed an order terminating the services of the petitioner.

3. The facts in short are that, while working as Gramsevak with Group Grampanchayat, certain financial irregularities were noticed by the authorities. Therefore, the Chief Officer issued notice. Since no satisfactory explanation was received, it was decided to conduct an enquiry. In the enquiry, the charges are held to be proved. Notice was therefore again issued as to why no order be passed terminating the services of the petitioner. It is thereafter, an order dated 23.06.2016 came to be passed terminating the services of the petitioner. Therefore, the petitioner filed an appeal before the learned Divisional Commissioner challenging an order passed by the learned Chief Officer. In the said appeal, it is the case of the petitioner, that though the notice issued by the learned C.E.O. was received, however, that time he was in mentally disturbed condition and could not understand the nature of the notice and it is for this reason he could not participate in the departmental enquiry. He submitted explanation to each and every charge before the

appellate authority. The learned Divisional Commissioner, however, rejected the appeal by his order passed in the month of January, 2018. The petitioner, therefore, approached the learned revisional authority i.e. Hon'ble Minister/respondent No. 2. The Hon'ble Minister also dismissed the revision making the petitioner to approach this Court challenging an action of his termination.

4. The learned advocate Mr. Kakde for the petitioner vehemently argued that, the petitioner could not participate in the departmental enquiry as he was mentally disturbed. The conclusion in the departmental enquiry is recorded against him and the order of termination came to be passed. He submits that, before the appellate authority he had submitted proper and cogent explanation. It was necessary in view of rule 21 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 (for short "the said Rules") to consider the explanation. Instead of considering the explanation, the learned Commissioner proceeded to decide the appeal and dismissed the appeal. The learned Commissioner thus failed in his duty to consider the explanation offered by the petitioner. By this action injustice is caused to the petitioner. Even the Hon'ble Minister in

the revision did not apply his mind properly and failed to appreciate the explanation offered by the petitioner against the charges framed against him. He submits that, no reasons are recorded by the learned Commissioner as well as the Hon'ble Minister. It ought to have been considered that the appeal filed by the petitioner was continuation of the original proceeding and therefore, the explanation ought to have been considered by the learned Commissioner. Having failed in their duties, the petitioner submits that, injustice is caused. He submits that, at least the matter could have been remanded for fresh enquiry to the learned Chief Executive Officer. He thus ultimately prays for remand of the matter.

5. The learned advocate Mr. Kothari for respondent No. 4 vehemently opposes the petition. He submits that, as a matter of fact, the petitioner did appear in the enquiry as is clear from the record. In the enquiry, thrice he sought time to file explanation, however, no statement of defence was filed. Therefore, the authority had to proceed with the enquiry and the report came to be filed. There is sufficient material found against the petitioner showing his involvement in the defalcation of the amount. He

spent amount of Grampanchayat on various heads without giving any receipts or the account. This misconduct is a gross misconduct attracting penalty as given in rule No. 4 of the said Rules. No perversity or illegality is committed by the disciplinary authority. It is for the first time, in the appeal the petitioner took a ground of mental illness which was not taken in the enquiry. The ground is without any material on record. No documents were produced in support of his case that he was not well. The petitioner did not answer even final show cause notice. He submits that thus no ground is made out by the petitioner. The learned Commissioner and Hon'ble Minister, both the authorities have rightly proceeded on the material produced before them. The authorities are only supposed to consider that material which was already produced before the disciplinary authority. He thus submits that, no ground is made out calling interference at the hands of this Court and prays for dismissal of the writ petition. He relies upon the following judgments :

- (i) **The State of Karnataka and Ors. Vs. Umesh**
reported in **MANU/SC/0342/2022.**
- (ii) **The State of Karnataka and Ors. Vs. N. Gangaraj**
reported in **MANU/SC/0187/2020.**

(iii) State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya reported in MANU/SC/0411/2011.

6. The learned A.G.P. also supports the impugned judgment and action. He also pointed out from the record that, in the initial enquiry the petitioner had appeared and denied the charges which made the authority to take decision to conduct an enquiry. He thus submits that, having appeared in the departmental enquiry, now it is not open for the petitioner to contend that no fair opportunity is given to him while taking the action.

7. This Court with the assistance of the learned advocates have gone through the petition paper book. It is seen from the enquiry report that the petitioner was present in the enquiry on various occasions. Thrice he sought time to produce on record a defence statement, however, in spite of granting sufficient opportunity he did not produce the defence statement. It is also seen that, on 11.08.2014, in the preliminary enquiry, the petitioner denied the charges against him which made the authority to proceed further with the enquiry. In the enquiry, various instances are given of misuse of the funds of the Grampanchayat. It is clearly recorded that, the statements were given to the petitioner of the witnesses

examined in the departmental enquiry. However, he informed that, he do not want to cross-examine the witnesses and gave it in writing. A notice was given after enquiry. Even there he failed to give explanation. It is thus seen that, there is no substance in the ground raised by the petitioner that no sufficient opportunity was granted to him. On the contrary, record shows that at every stage of the enquiry sufficient opportunity was granted to the petitioner. It is also seen that, the petitioner specifically refused to cross-examine the witnesses though copies of statements were given to him. So far as the judgment by the learned Divisional Commissioner is concerned, it is seen that for the first time, contrary to earlier stand in the departmental enquiry, the petitioner taken a stand that he was mentally ill and therefore, he could not understand the nature of the proceeding. Before the learned Commissioner he had taken second ground that, because of the pressure from the superiors he could not remain present in the enquiry. Even this ground was taken for the first time before the learned Commissioner. The learned Commissioner has rightly discussed that, about this allegation also, no record is produced.

The learned Commissioner has rightly dealt with this aspect and passed an order. So far as the order passed by the Hon'ble Minister is concerned, which is impugned in the petition, in the said order also this Court does not find any illegality or perversity.

8. In the case of **State of Karnataka and Ors. Vs. Umesh (supra)**, the Hon'ble Apex Court considered that the proof required in the disciplinary enquiry is distinct in nature from one that is required in criminal trial. The Hon'ble Apex Court considered three Bench judgment in the case of **State of Haryana Vs. Tattan Singh, (1977) 2 SCC 491**. The Hon'ble Apex Court further considered the scope of judicial review. It is held that the High Court does not act as an appellate forum over the findings of the disciplinary authority. The Court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at. The Court shall not interfere unless the penalty is shockingly disproportionate to the proven misconduct.

9. In the case of **State of Karnataka and Ors. Vs. N. Gangaraj (supra)**, the Hon'ble Apex Court again considered the scope of judicial review. It is held that, the review is not an appeal from a

decision, but a review of the manner in which the decision is made. It is only to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the Court.

10. In the case of **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya** (*supra*), the Hon'ble Apex Court recorded that, it is now well settled that the Courts will not act as an appellate Court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record.

11. This Court has considered the above judgments. In the present case, this Court finds that, the principles of natural justice have not been violated. The enquiry is duly conducted. No illegality or perversity is found. The punishment which is imposed is not shockingly disproportionate looking to the misconduct proved in the departmental enquiry. This Court also does not find that, there is failure of justice caused by the action of the respondent/C.E.O.

12. Considering overall view, this Court is not inclined to interfere with the impugned order. There is no substance in the writ petition. Therefore, the writ petition stands dismissed.

(KISHORE C. SANT, J.)

PS.B.