



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

WRIT PETITION NO. 1135 OF 2024

Sachinabai Niplashya Bhosale

VERSUS

The State Of Maharashtra Through Its Secretary And Others

Mr. Farooqui Kamaloddin Nuruddin, Advocate for petitioner

Mrs. M. N. Ghanekar, AGP for Respondent Nos. 1 and 2/State

Mr. S. R. Shirsat, Advocate for Respondent Nos. 3 and 4

CORAM : R. M. JOSHI, J.

DATE : 24th April, 2025

PER COURT :-

1. This petition takes exception to the order dated 09.10.2023 passed by Additional Divisional Commissioner, Chatrapati Sambhaji Nagar rejecting appeal filed by the petitioner under Rule 13 of the Maharashtra Zilla Parishads District Services (Discipline & Appeal) Rules, 1964 whereby the order passed by Chief Executive Officer of imposing minor punishment of withholding one increment against the petitioner came to be confirmed.

2. Learned counsel for petitioner submits that petitioner was issued with charge sheet leveling / alleging acts of misconduct against her. In this regard, an inquiry was conducted. Inquiry Officer recorded findings on the basis of evidence led that both charges are not proved. It is his submission that

in spite of the said fact, punishment came to be imposed of withholding one increment of the petitioner. It is his submission that since none of the charge is proved against petitioner, question of imposing of any punishment does not arise. According to him, Additional Divisional Commissioner has failed to take into consideration the said aspect and dismissed appeal.

3. Learned counsel for Zilla Parishad supported the impugned order. According to him, the petitioner is said to have committed misconduct for which minor punishment can be imposed even without conducting inquiry as provided in the rules applicable to the petitioner.

4. Admittedly, charge sheet was issued against the petitioner. Inquiry was conducted. Inquiry Officer has filed report exonerating the petitioner from both charges. There is no challenge raised by Respondent - Zilla Parishad to these findings recorded by the Inquiry Officer. In such circumstances, it is not open for the Zilla Parishad to punish the petitioner even with a minor penalty for the charges which are not proved. It would altogether different matter if the employer imposes minor penalty without conducting departmental inquiry. However, this rule cannot be made applicable once inquiry is conducted and the charges are held to be not proved. This aspect has not been considered by the Additional Divisional Commissioner while passing

impugned order. The order of imposition of punishment of withholding one increment cannot be sustained, as no charge is proved against the petitioner.

5. As a result of this, petition stands allowed. Impugned order passed by Addition Divisional Commissioner dated 09.10.2023 is set aside. Appeal filed before Commissioner stands allowed. Order passed by Chief Executive Officer of withholding of one increment is set aside. Petitioner is entitled to receive monetary and other consequential benefits.

(R. M. JOSHI, J.)

bsj