



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

908 WRIT PETITION NO. 7227 OF 2025

SAMINA GULAB BAGWAN

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Mr. V. P. Savant, Advocate for the Petitioner

Mr. A. B. Girase Government Pleader a/w Ms S. S. Joshi, AGP for
Respondent No.1 – State

Mr. B. B. Bhise, Advocate for Respondent Nos. 2 and 3

....

AND

909 WRIT PETITION NO. 7230 OF 2025

FIROJ ISMAIL SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Mr. V. P. Savant, Advocate for the Petitioner

Mr. A. B. Girase Government Pleader a/w Mr. V. M. Kagne, AGP for
Respondent No.1 – State

Mr. B. B. Bhise, Advocate for Respondent Nos. 2 and 3

....

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 20.06.2025

PER COURT :-

1. Peculiar facts emerge from these two petitions, which are interconnected. The Petitioner in the first Petition, Samina, divorced her first husband and married the Petitioner in the second Petition, namely, Firoj Ismail Shaikh. There is no dispute that Firoj has a subsisting marriage and a first wife who is still

living. Both have been suspended from duty with effect from 01.08.2024 on the ground that Firoj did not take the permission of the Chief Executive Officer of the Osmanabad Zilla Parishad before marrying Samina. The Chief Executive Officer issued these orders on account of the complaint of the first wife of Firoj, relying upon Rule 20 of the Maharashtra Zilla Parishad District Services (Conduct) Rules, 1987.

2. Rule 20 makes an interesting reading as under:-

"20. Contracting of marriages - (1) No Parishad servant who has a wife living, shall contract another marriage without first obtaining the permission of the Chief Executive Officer notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

(2) No female Parishad servant shall marry any person who has a wife living, without first obtaining the permission of the Chief Executive Officer notwithstanding that such marriage is permissible under the personal law, for the time being applicable to her."

3. It thus obvious that the Chief Executive Officer applied Rule 20(1) to the case of Firoj and Rule 20(2) to the case of Samina.

4. The learned Advocate representing the Zilla Parishad, who has made a valiant attempt to justify the order of suspension, concedes on the basis of the record that both these Petitioners have been issued with charge-sheets dated 05.02.2025. Since the suspension till the date of the charge-sheet, no steps were taken and

after the charge-sheet has been issued to both, an Enquiry Officer has not been appointed and, therefore, no departmental enquiry has commenced.

5. It is settled law that an employee cannot be suspended *sine die*. So also, it is expedient that a suspension order has to be issued pending disciplinary action and such disciplinary action has to be initiated with expediency.

6. The learned Advocate for the Zilla Parishad submits on instructions that the suspension of both these employees would be revoked by 30.06.2025.

7. The learned Advocate for the Petitioners submits that when both the Petitioners admit that they have not taken the permission of the Chief Executive Officer, nothing remains to be proved and yet the suspension has continued for 11 months.

8. Considering the above and since both have admitted that they did not take the permission of the Chief Executive Officer, keeping in view that the marriage has already been performed on 19.01.2021 (and a child is born from the said wedding) and the suspension has occurred on 01.08.2024, we find that depriving the

Petitioners of three months salary by way of punishment. More so, since there is no punishment prescribed for such a misconduct.

9. We, therefore, exercise our extra ordinary jurisdiction and direct the Chief Executive Officer to pay the salary to these two Petitioners for the period of suspension, save and except for the period of three months as punishment.

10. Before parting with these two cases, we found it necessary to call upon the learned Government Pleader Shri Girase to express his view on Rule 20. He submits that though these Petitioners profess the Mohammedan Religion, there are certain principles which would be applicable and he would bring the language used in Rule 20, more particularly with regard to "*contract another marriage without first obtaining the permission of the Chief Executive Officer notwithstanding that such subsequent marriage is permissible under the personal law*" to the notice of the Government and would recommend to the Government that Rule 20 needs to undergo a change.

11. The learned Government Pleader also submits on the query raised by the Court that, if no Tribunal is constituted under The

Maharashtra Zilla Parishad (Tribunal Procedure) Rules 1971, effective steps would be taken by the State Government for the formation of the Tribunal, at the earliest.

12. As such, we would appreciate if the State Government draws its attention to Rule 20 and initiates steps for rewording the same in a manner which would be within the provisions of the statute.

13. In view of the above directions, **both these Writ Petitions are disposed off.**

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

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