

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7784 OF 2024

Shri Sanjay Bhavsingh Patil,
Aged 49 Years, Occ. Service,
R/at 7, Apurva Row House, Peth Road,
Near R.T.O. Office, Suryawanshi Vyavam
Shala, Durga Nagar, Panchvati, Nashik. ... Petitioner

Versus

- 1] The State of Maharashtra,
Through the Minister for Rural
Development, Mantralaya, Mumbai
- 2] The Chief Executive Officer,
Zilla Parishad, Nasik.
- 3] The Chairman,
Standing Medical Board,
Sir. J.J. Group of Hospital,
Mumbai 400 001 ... Respondents

Mr. Sachin Gite for the Petitioner.

Mr. P.P. Kakade, Addl. GP with Mr. Vikas Mali, AGP for Respondent
No. 1, State.

Mr. Rohit Sakhadeo for Respondent No. 2.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 17th February, 2025

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.)

1. **Rule.** Rule made returnable forthwith and heard finally
with the consent of the parties.

2. On 30th January, 2025, we had passed the following order :

“1. Heard the learned Advocates for the respective sides and the learned Additional Government Pleader on behalf of the State.

2. Normally, the Courts are extremely slow in interfering with the orders of the suspension, if the competent Authority has exercised the power duly vested in it by law. However, in cases where the suspension order is issued by an Incompetent Authority, or such order cannot be justified, that this Court has interfered in suspension orders.

3. The case before us is quite peculiar. The Petitioner claims to be suffering from 40% visual impairment. He submits that his first certificate is of 2009, wherein, he was found to be suffering from visual impairment to the extent of 40% disability. He is diagnosed to be suffering from BE Myopia with Macular Degeneration. He has produced one certificate dated 10th September, 2015 issued by the Competent District Court empowered to issue a disability certificate. The said certificate indicates that he suffers the disability of visual impairment affecting both eyes, though the condition is non-progressive. At the same time, the said Medical Authority has observed that his condition is not likely to improve. The Committee was comprising of three members out of which one is an Ophthalmic Surgeon.

4. The Superintendent of Sir J J Group of Hospitals had addressed a letter directly to the Block Development Officer of Panchayat Samiti Dindori, dated 15th June, 2018. The

Medical report of the Petitioner is attached to the said communication, which is dated 15th June 2018. The report indicates that the Petitioner was examined on 14th June, 2018 by a Committee comprising of the Chairman, and two Members of the Standing Medical Board of Sir.J J Group of Hospitals. His percentage of permanent blindness was recorded at 40%.

5. However, the learned Advocate representing the Zilla Parishad has tendered an Additional Affidavit dated 29th January, 2025 from page Nos. 107 to 120. During the course of the hearing of the matter, he was instructed on the basis of a compilation of documents to inform the Court that on 3rd July 2018, the same three members of the Standing Medical Board of the Sir J J Group of Hospital has issued a Certificate stating that the vision of the Petitioner is perfect and he suffers from 0 % blindness. This indicates that this Certificate issued by the same Standing Medical Board is contrary to the certificate dated 15th June, 2018 issued by the same medical Board.

6. The above situation intrigues us. If both these certificates are genuine, it shocks our judicial conscience that the same Standing Medical Board has issued two Certificates which are 18 days apart and which are diagonally opposite to each other. The learned Advocate, therefore, tenders the photostat copy of the document dated 3rd July 2018 which is marked as 'X-1' for identification.

7. For this Reason, we direct the Petitioner to add the Chairman of the Standing Medical Board Sir J. J. Group of Hospital as Respondent No.3. Addition to be carried out forthwith.

8. Issue notice to the added Respondents, returnable on 17th February 2025. The learned Additional Government pleader waives service of notice of behalf of the added Respondent and seeks time to take instructions.

9. We, therefore, expect the learned Additional Government pleader to ensure that a short affidavit explaining this situation is filed in this Court, on or before 10th February, 2025. List this Writ Petition in the urgent orders category on 17th February 2025 on the supplementary board.”

3. Today, the learned Addl.GP is instructed by the Chairman of the Standing Medical Board, Sir J.J.Group of Hospital to seek time to verify the signatures.

4. We are not granting time for the reason that if the issue pertains to verification of signature of certain Doctors on different medical certificates, the matter has to be referred to the handwriting expert and mere denial by a person that the signature is not his, cannot be sufficient to brand the Petitioner, as being a person, who had doctored or manufactured the certificate.

5. The issue raised before us in this Petition is as regards the suspension of the Petitioner, vide order dated 21st February, 2024.

6. It is in the light of the challenge before us that we have heard the learned Advocates for the respective sides.

7. There is no dispute that the Petitioner has been suspended, vide order dated 21st February, 2024. The suspension is based on some enquiry report of a purported enquiry committee. The Petitioner has joined employment as a Gramsevak on 2nd June, 1995, from the open category. He was promoted to the post of Gram Vikas Adhikari on 9th December, 2003. On 4th December, 2009, the Civil Surgeon, Nashik issued a permanent disability certificate to the Petitioner indicating 40% loss of vision. The blindness is described as visual acuity not exceeding 6/60 or 20/200 (Snellen) in the better eye with corrective lenses and he is described to be a person with low vision with impairment of visual functioning, even after treatment of standard refractive correction, but who uses or is potentially capable of using vision for the planning or execution of the task with appropriate assistive device. His percentage of permanent blindness was recorded at 40%. Along with the said Civil Surgeon, a Resident Medical Doctor and a specialist in Ophthalmology have examined the Petitioner.

8. The Petitioner received a disability certificate from the Government of Maharashtra, dated 10th September, 2015, identifying visual impairment in both eyes, diagnosed as RE 6/60 LE 6/36 BE Myopia with Macular Degeneration upto 40%.

9. On 15th June, 2018, the Superintendent of Sir J. J. Group of Hospitals addressed a letter to the Block Development Officer of Panchayat Samiti, Dindori, Nashik, informing that the Petitioner is suffering from 40% permanent blindness. The Chairperson and two members of the Standing Medical Board of the Sir J.J. Group of Hospitals, have signed the said certificate. As recorded in our order dated 30th January, 2025, the same Board is said to have issued a certificate on 3rd July, 2018, which was marked as ‘X-1’ , indicating that his permanent blindness is 00% and he is not fit to be placed under “handicap category”.

10. The Petitioner has also tendered a medical certificate received from Supe Heart and Diabetes Hospital & Research Center, dated 13th February, 2024 which indicates that the Petitioner is suffering from “Type 2 Diabetes mellitus, Primary Hypothyroidism, APD, Dyslipidemia PN Angina”. The Petitioner has also received a

disability certificate from Jairambhai Dayabhai Chauhan Bytco Hospital, Nashik, which is authorized by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India, dated 20th February, 2024, which indicates that he is suffering from both eyes Macular Dystrophy and has a permanent disability upto 40% in both the eyes.

11. The grievance of the Petitioner is that he was simply placed under suspension on 21st February, 2024 and the Zilla Parishad practically forgot his case. He can't be left to suffer if such an order of suspension is issued and no further steps are taken. The record reveals that the chargesheet was issued by the Zilla Parishad on 16th July, 2024, after the filing of this Petition, on 26th May, 2024.

12. The charge describes that the Petitioner has tendered bogus medical certificates. The counter argument of the Petitioner is that the certificates are issued by the Sir J. J. Group of Hospitals and in fact, certificates were directly served on the Block Development Officer by the Registrar of the Hospital. The Enquiry Officer was appointed on 21st January, 2025, though it is an admitted

position that the reply to the chargesheet-cum-show cause notice was submitted by the Petitioner, within a period of ten days.

13. A perusal of the chargesheet indicates that though the Petitioner has been charged with having submitted a bogus certificate, Rule 3 of the Maharashtra Zilla Parishad District Services (Conduct) Rules, 1967 (the Rules of 1967), prescribes as under:

“3. Duty of Parishad servants to maintain integrity. -(1) Every Parishad servant shall at all time maintain absolute integrity and devotion to duty”.

14. As noted in our order dated 30th January, 2025, we normally do not interfere with orders of suspension. However, here is a case before us wherein the suspension is prolonged. In another four days, it would be one year of suspension. The chargesheet is issued beyond five months after the Petitioner was suspended. The Enquiry Officer was appointed beyond five months, thereafter.

15. The State of Maharashtra had issued a Government Resolution dated 14th October, 2011 pertaining to suspension of employees, which is said to be applicable to the Petitioner's service.

Clause 3 which requires a review of the suspension after one year, reads as under:

"३. ज्या प्रकरणी शासकीय अधिकारी / कर्मचाऱ्यावर बेहिशोबी मालमत्ता, नैतिक अधःपतन, लाच-लुचपत, खून, खुनाचा प्रयत्न, बलात्कार या व या सारख्या गंभीर प्रकरणात फौजदारी गुन्हा दाखल झाल्यामुळे निलंबनाची कारवाई करण्यात आली असेल अशा प्रकरणी निलंबनाच्या दिनांकापासून एका वर्षांनंतर प्रकरण संबंधित निलंबन आढावा समितीसमोर विचारार्थ सादर करण्यात यावे."

16. *Prima facie*, considering the charge leveled upon the Petitioner, his conduct may not fall under Clause 3 of the Government Resolution dated 14th October, 2011 since the Chief Executive Officer of the Zilla Parishad has referred to Rule 3 of the Rules of 1967, which is reproduced herein above. So also, a First Information Report (FIR) bearing No. 220 of 2024, was registered on 24th March, 2024 at Sinnar Police Station, Nashik, invoking Sections 465 and 420 of the Indian Penal Code.

17. Considering the nature of the charge, we are of the opinion that the enquiry as well as the criminal investigation can proceed simultaneously. The issue is whether the Petitioner needs to be kept under suspension after one year. If we glance at his first medical certificate dated 4th December, 2009, it appears that he

developed the said illness after almost 14 years and 6 months after joining employment on 2nd June, 1995. He was not appointed under the disabled category. He was a normal person belonging to the open category, who was appointed on 2nd June, 1995. Because he moved a request application for transfer on the basis of the medical certificates, which he already had, he has been placed under suspension in view of the communication of the Zilla Parishad seeking verification of the certificate, dated 3rd July, 2018, marked as 'X-1.'

18. Considering that the Zilla Parishad has taken five months to issue a chargesheet and that too after the Petitioner filed his Petition, when three months of the suspension were over and the Zilla Parishad has then taken another five months to appoint an Enquiry Officer when the reply to the chargesheet was tendered within the timeline. If this is the manner in which the Zilla Parishad is to conduct its departmental enquiry, we do not find that it would be fair and proper to keep the Petitioner under prolonged suspension.

19. It is immaterial whether he is receiving full salary after

a particular duration of the suspension or whether he is receiving 75% subsistence allowance. A person cannot live with dignity with such a prolonged suspension and the Zilla Parishad leisurely conducting the enquiry in the manner as recorded above. So also, a criminal investigation is going on. We do not find that the charge leveled against the Petitioner is so serious that his presence in the premises on duty could be dangerous to the discipline and administration of the Grampanchayat Malegaon.

20. In view of the above, **this Writ Petition is partly allowed.**

21. The impugned order of suspension would not be continued beyond 21st February, 2025. The Petitioner would be reinstated in service with effect from 22nd February, 2025. Insofar as the deployment of the Petitioner is concerned, the Zilla Parishad is at liberty to take a decision as to the posting of the Petitioner. In the event, he is posted at some different place, the law applicable of paying him TA/DA for participating in the enquiry, if it is held at a different place, would be applicable.

22. Needless to state, as regards the period of suspension, the same would be subject to the decision of the employer pursuant to the conclusion of the departmental enquiry.

23. We expect the enquiry to be concluded within a period of four months from today and the Petitioner shall render cooperation.

24. For easy correspondence, the parties would enter into correspondence on the email address of the Petitioner, which is as under :

Email address :- patilsanjay9035@gmail.com

25. Rule is made partly absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)