

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

WRIT PETITION NO. 5345 OF 2025

Pooja Gurunath Chavan ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

**AND
WRIT PETITION NO. 5347 OF 2025**

Nileema Krushna Patil ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

**AND
WRIT PETITION NO. 5576 OF 2025**

Vinod D. Pawar ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

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Ms. Preeti Walimbe a/w Ms. Vaishnavi Nagargoje, Advocate for the
Petitioners.

Mr. V.G. Badgujar, AGP for Respondent No.1/State in
WP/5345/2025.

Mr. S.P. Kamble, AGP for Respondent No.1/State in WP/5347/2025.

Mr. Abhijeet Naik, AGP for Respondent No.1/State in
WP/5576/2025.

Mr. Ashish Gaikwad a/w Ms. Anjali Kolapkar, Advocate for
Respondent Nos.2 to 4.

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

DATE : 6th MAY, 2025

P.C. :-

1. With the consent of the parties, we are disposing off these Petitions.

2. On 28th April, 2025, we had passed the following order :

“1. These are peculiar cases before us, wherein, prima facie we find that the medicine was worse than the disease. Suspension orders have been issued for an act of minor indiscipline of reporting late to work on one day.

2. The learned Advocate appearing on behalf of the Zilla Parishad, desires to take instructions from the Chief Executive Officer and address this Court.

3. List these Writ Petitions on 5th May, 2025 as part heard, in the fresh admissions category.”

3. The issue before us is that these Petitioners were alleged to have reported late on 12th February, 2025 at the Primary Health Centre (PHC), Nilage. The Chief Executive Officer (CEO), Zilla Parishad, Thane had made a surprise visit to the said PHC on the said date. He noticed that after one hour of the commencement of the duties, these Petitioners were not found at the PHC. On 13th February, 2025, the CEO passed an order and suspended these three Petitioners along with a few others. Presently we are dealing with these three Petitioners.

4. The order of suspension was issued under Rule 3 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964. Rule 3 reads as under :

“3. Suspension. -The Appointing Authority or any other Officer of the Zilla Parishad to whom such Appointing Authority is subordinate or any other officer of the Zilla Parishad empowered by the Chief Executive Officer in that behalf may place a Parishad servant under suspension,-

- (a) where a disciplinary proceeding against him is contemplated or is pending, or
- (b) where a case against him in respect of any criminal offence is under investigation or trial:

Provided that, where the orders of suspension are made by an authority lower in rank than the Appointing Authority, such authority shall forthwith report to the Appointing Authority the circumstances in which the order was made.

(2) A Parishad servant who is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the Appointing Authority and shall remain under suspension until further orders.

(3) Whether a penalty of dismissal, removal or compulsory retirement from service imposed upon a Parishad servant under suspension is set aside in appeal or revision under these rules, and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Parishad servant is set aside or declared or rendered void in consequence of, or by, a decision of a Court of law and the Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Parishad servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) An order of suspension made or deemed to have been made under this rule may, at any time, be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.”

5. Rule 3(a) would enable the CEO to suspend a Zilla Parishad servant when a disciplinary proceedings against him is contemplated or is pending. Apparently, the CEO has suspended these three Petitioners since they had reported late on 12th February, 2025.

6. In view of the above backdrop, the learned Advocate for the Petitioners has canvassed that on one instance of late coming, CEO should not have suspended these Petitioners. She

further adds that now these Petitioners have been directed to report at different Talukas.

7. Reference is made to a Government Resolution dated 22nd April, 2025, which is placed on record with the affidavits of these Petitioners with pagination in continuation. In clause (1)(a), it is provided that the suspension should not be unnecessarily prolonged. She further makes a reference to sub-clause (i) which mentions that the suspension should be reviewed after three months.

8. In the hearing of these matters on the previous dates, we had expressed our view to the learned Advocate for the Zilla Parishad that, though the CEO is perfectly justified in insisting upon discipline especially in a Primary Health Center involving medical facilities and providing medical amenities to the poor and the down trodden, the action to be meted out for one instance of late coming should not be disproportionate. We could have appreciated if a show cause notice had been issued to each of these Petitioners with a direction to submit their replies and thereafter, some commensurate punishment would have been imposed.

9. The learned Advocate representing the Zilla Parishad submits that on one hand, these Petitioners have been suspended and on the other hand they have been posted in different Talukas. We do not find that such punitive transfer could be sustained in view of the above reproduced provisions under the Government Resolution.

10. We, therefore, called upon the learned Advocate representing the Zilla Parishad to take instructions as to whether a commensurate punishment could be given to these Petitioners since it is just one instance of late coming. The learned Advocate for the Petitioners has tendered their affidavits stating therein that they will tender a written apology to the CEO with an assurance that there would no instance of late coming. They would reside within a periphery of 5 kms from the location of the PHC. They are willing to suffer any punishment as this Court may order.

11. The learned Advocate for the CEO submits that these Petitioners have been posted in a different Talukas. Their head quarters have been changed. This would not amount to transfer of an employee. We are unable to appreciate this submission.

12. The learned Advocate representing the CEO, submits on instructions that he is agreeable to the resolution in the nature of, (a) the Petitioners tendering their written apology for that instance of late coming, (b) their willingness to reside within 5 kms of their original posting (from where they were suspended) and the residential addresses would be communicated to the department, (c) their suspension orders would stand withdrawn and (d) they would be subjected to stoppage of one increment for one year, without cumulative effect.

13. Since there is a meeting of minds between the parties, and since the aforesaid resolution of the dispute would amount to a commensurate punishment to these Petitioners who are working in a Primary Health Centre (Health Services), these **Writ Petitions are disposed off** with the following directions, by consent :-

(a) The Petitioners would tender their written apology letters to the CEO, within a period of 15 days from today.

(b) The orders of suspension of these Petitioners, subject to the compliance of the terms of this order, would stand revoked, and they would be at liberty to report for duties on 8th May, 2025.

(c) The suspension orders would stand revoked with effect from the date of the filing of this Petition and thereafter, full salary with allowances will be payable to the Petitioners.

(d) The Petitioners would suffer a commensurate punishment of stoppage of one annual increment for a period of one year, without cumulative effect, from 1st June, 2025.

(e) The suspension allowances from date of suspension until 14th April, 2025, shall be paid to the Petitioners.

(f) Since the Petitioners will have to search for an accommodation within 5 kms of their earlier postings, we grant eight weeks time to the Petitioners to find an accommodation and the moment they get the accommodation, they would ensure that the address of the accommodation would be tendered to the CEO in the 9th week, without seeking any extension.

(g) The Petitioners shall ensure that they report for duties strictly in accordance with the schedule as is prescribed, which is 8:30 a.m. The rules, regulations and service conditions applicable to these Petitioners shall be

scrupulously followed, save and accept in circumstances beyond the control of the Petitioners, for which, appropriate intimation of any such circumstances shall be conveyed to the Head of the Department either personally or through a colleague.

(h) The Zilla Parishad shall ensure that the outstanding suspensions/subsistence allowances, shall be paid to the Petitioners, within 21 days.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)