



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1674 OF 2022

Narendra S/o. Sheshrao Sthul **Vs.** State of Maharashtra, Through its Secretary,
Education, Department, Mantralaya and ors.

*Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order*

Court's or Judge's Order

Ms. C. D. Lilhare, Advocate, h/f. Mr. S. S. Dhengale, Advocate for petitioner.
Mr. S.S. Shinde, Advocate for Respondent Nos. 3 and 4.
Mrs. M. S. Naik, AGP for respondent/State.

CORAM : ROHIT W. JOSHI, J.

DATE : 13.11.2025.

. Stoppage of punishment of one increment, which is a major penalty in terms of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rule, 1964, came to be imposed upon the petitioner vide order dated 12.06.2020 passed by the Chief Executive Officer of respondent No.1-Zilla Parishad. The statutory appeal preferred by the petitioner came to be dismissed by the Divisional Commissioner, Amravati Division, vide impugned order dated 14.09.2021.

2. The learned Advocate for the petitioner draws attention to the enquiry report dated 27.09.2019, whereby the Enquiry Officer has exonerated the petitioner of all three charges levelled against him. She then draws attention to the opinion of the Disciplinary Authority, wherein the Disciplinary Authority has concurred with the opinion of Enquiry Officer with respect to two charges but has recorded disagreement

with respect to the third charge pertaining to handing over of charge to the in-charge Headmaster.

3. The learned Advocate has drawn attention to Rule 6(9) and 6(10) of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rule, 1964, to contend that in case where the Disciplinary Authority is not the Enquiring Authority, it is incumbent upon the Disciplinary Authority to consider each charge and record his finding on the same. She thereafter draws attention to Rule 6 (10) (i)(a) to contend that in case where the Disciplinary Authority does not concur with the opinion of the Enquiry Authority, it is necessary for the Disciplinary Authority to record brief of reasons for the disagreement.

4. In the case at hand, perusal of the enquiry report will demonstrate that the Enquiry Officer found that one Sandeep Gupta was holding the charge of Headmaster of the School till 04.01.2016 and on that date charge was handed over to the petitioner as in-charge Headmaster. The petitioner has handed over charge to one Mr. P. S. Mavaskar on 06.01.2016 after receiving the charge on 04.01.2016.

5. As against this, the Disciplinary Authority has recorded that despite communication dated 28.03.2014 issued by the Block Education Officer as well as show cause notice dated 06.03.2014, the petitioner did not handover charge of financial affairs as directed and also did not reply to the show cause notice. Perusal of findings by the Disciplinary Authority will demonstrate

that the observations by the Enquiry Officer had not been considered at all.

6. Although the Disciplinary Authority states that it has disagreed with the findings recorded by the Enquiry Officer, in the considered opinion of this Court it was necessary for the Disciplinary Authority to deal with the findings and then record disagreement. The mandate of Rule Rule 6 (10) (i)(a) is not followed in its true letter and spirit.

7 In view of the above, the order of punishment dated 12.06.2020, passed by Zilla Parishad, order dated 14.09.2021 passed by Divisional Commissioner, Amravati and the subsequent order dated 26.10.2021 whereby the order imposing punishment came to be implemented are quashed and set aside. The respondent/employer is at liberty to continue with the enquiry from the stage of Rule 10 and proceed against the petitioner, if it deems fit. Writ Petition is disposed of with liberty to the employer as aforesaid.

8. It is informed that the petitioner has attained the age of superannuation. In view of the aforesaid enquiry will be continued against him only if it is otherwise permissible in law.

9. At the stage, learned Advocate for the petitioner informs that the pension of the petitioner is not being released in view of pendency of the present petition. Although pension is not the subject matter of the present petition, this Court expresses displeasure

towards the conduct of the respondent-employer in withholding pension of the petitioner on the ground of pendency of the present petition.

(ROHIT W. JOSHI, J.)

Tanmay...