



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

WRIT PETITION NO.3654 OF 2023

Ganesh s/o Kisan Bhujade,
Aged about 56 years,
Occupation-Service,
Kutanga, Tahsil-Dharni,
District-Amravati.

.. Petitioner

.. Versus ..

1] The Divisional Commissioner,
Amravati Division,
Amravati.

2] The Zilla Parishad, Amravati,
through its Chief Executive
Officer, Tah. & Dist. Amravati.

3] The Education Officer (Primary),
Zilla Parishad, Camp Area,
Amravati.

4] The Block Development Officer,
Morshi, District-Amravati.

.. Respondents

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Shri P.D. Meghe, Advocate for Petitioner.

Shri P.P. Pendke, AGP for Respondent No.1/State.

Shri M.G. Rathi, Advocate for Respondent Nos.2 and 3.

None for Respondent No.4 though served.

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CORAM : PRAVIN S. PATIL, J.

DATED : 19th AUGUST, 2025.

JUDGMENT

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. By way of present petition, Petitioner is challenging the order dated 12.01.2022 passed by Respondent No.2–Chief Executive Officer, Zilla Parishad, Amravati as well as the order dated 30.09.2022 passed by Respondent No.1-Divisional Commissioner, Amravati Division, Amravati.

3. In nutshell the brief facts of the present matter are as under :

The petitioner was appointed by Respondent No.2 as a permanent teacher in Zilla Parishad, Amravati on 12.09.1990. Considering his merit-cum-seniority, he was promoted as a Headmaster at Zilla Parishad, Shirkhed, Tahsil-Morshi, District-Amravati. After taking the charge as a Headmaster, one member of the School Committee raised grievance that the petitioner is involved in malpractices in respect of distribution of uniforms,

bogus admissions along with other allegations. According to the petitioner, three members committee was constituted to investigate the allegations made against the petitioner. In the said three members committee, it is found that there is no substance in the allegations raised against the petitioner and accordingly the petitioner was given clean-chit in the matter.

4. It is further pointed out by the petitioner that after giving him clean-chit by the Three Members Enquiry Committee, again the same person lodged complaint to the Block Development Officer, Panchayat Samiti, Amravati on the same allegations. Accordingly, Block Development Officer has constituted the enquiry committee to again re-investigate the allegations levelled against the petitioner. This time, the Committee found that petitioner is involved in the alleged irregularity in distribution of uniforms and bogus admissions etc.

5. In view of the finding of the preliminary enquiry committee, the Education Officer (Primary), Zilla Parishad, Amravati, by his order dated 07.12.2017 suspended the services of the petitioner. After that, on 06.06.2018, the Block

Development Officer, Panchayat Samiti, Morshi issued the chargesheet to the petitioner. The charges levelled against the petitioner was dereliction of duty and misappropriation in the school administration. After issuing the chargesheet, the enquiry was concluded by appointing the Enquiry Officer and submitted the report dated 04.07.2019 stating that both the charges are not proved against the petitioner. Though the petitioner was exonerated from all the charges, the Respondent No.2-Zilla Parishad, who is the Disciplinary Authority, imposed the punishment of withholding of one increment permanently and further to treat the suspension period of the petitioner as suspension by order dated 07.07.2020.

6. Against the order of Respondent No.2-Zilla Parishad, Amravati, Petitioner has preferred statutory appeal before the Divisional Commissioner, Amravati. The Divisional Commissioner, Amravati, while deciding the appeal, by order dated 26.10.2021 specifically held that in the enquiry proceeding the chargesheet has been issued to the petitioner by the authority, who is not the appointing authority of the petitioner and accordingly entire enquiry proceeding are

vitiated. Accordingly, set aside the order of Respondent No.2-Zilla Parishad dated 07.07.2020, but at the same time, by exceeding his jurisdiction, directed the Chief Executive Officer, Zilla Parishad, Amravati to re-consider the issue of imposing the minor penalty.

7. In view of the order of the Divisional Commissioner, Amravati, the Respondent No.2, by the impugned order, 12.01.2022 imposed the minor punishment of withholding two increments for temporary period and further the suspension period of the petitioner was treated as suspension.

8. Against the said order of Respondent No.2-Zilla Parishad, Amravati, the petitioner again approached to the Divisional Commissioner, Amravati and raised a grievance that once the enquiry is held to be illegal by him, it was not justified for the Respondent No.2 to pass such order in the matter. However, the learned Divisional Commissioner, by the order dated 30.09.2022, dismissed the appeal filed by the petitioner and confirmed the order passed by Respondent No.2 dated 12.01.2022.

9. In the background of above said factual position, the petitioner approached to this Court to set aside both the orders passed by Respondent No.2-Chief Executive Officer, Zilla Parishad, Amravati as well as the Respondent No.1-Divisional Commissioner, Amravati Division, Amravati.

10. Learned counsel appearing for the Respondent-Zilla Parishad vehemently opposed the petition. It is his contention that once the Divisional Commissioner by his order dated 26.10.2021 granted liberty to the Chief Executive Officer, Zilla Parishad, Amravati to re-consider the issue about imposing minor punishment, same has been complied with by the Respondent No.2 and, therefore, there is no illegality in the order passed by Respondent No.2. He further contended that it was for the petitioner to challenge the order of Divisional Commissioner dated 26.10.2021 whereby liberty was granted to the Zilla Parishad to impose the minor penalty. But he failed to challenge the same. Hence, on this count, it is stated that the petition is devoid of merit and same should be dismissed.

11. Learned Assistant Government Pleader for Respondent

No.1/State supported the order passed by Respondent No.1 and adopted the submission made by Respondent No.2-Zilla Parishad, Amravati in the matter.

12. After perusal of entire record as well as the provisions of law, it is clear that once the Divisional Commissioner, Amravati held that enquiry proceeding has been vitiated due to not issuing the chargesheet by the Appointing Authority, consequently the punishment imposed by the Disciplinary Authority loses its significance. Therefore, there was no reason for the Divisional Commissioner to direct the Chief Executive Officer to re-consider the issue of imposing of minor punishment to the petitioner on the basis of same enquiry. Hence, on this count alone, order of Respondent No.1 dated 26.10.2021 to the extent of directing to Respondent No.2 is nothing but exceeding his jurisdiction.

13. It is further pertinent to note that the Divisional Commissioner, Amravati by his order dated 26.10.2021 has given liberty to the Chief Executive Officer to re-consider, whether to impose minor punishment or not against the petitioner. Therefore, in consequence of the same, if the Chief

Executive Officer was of the opinion to impose the minor penalty against the petitioner, he was duty bound to follow of Rule 7 of the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964 (for short, 'said Rules'). This Rule provides the procedure which is required to be followed for imposing the minor penalty.

14. Admittedly, in the present petition, the procedure provided under Rule 7 of the said Rules is not followed in the matter. Learned counsel appearing for the Zilla Parishad fairly conceded that no notice was issued to the petitioner before imposing the minor punishment. Hence, prima facie, the impugned order passed by the Respondent No.2-Zilla Parishad dated 12.01.2022 is liable to be quashed and set aside.

15. The Divisional Commissioner, Amravati who was supposed to consider this material aspect, failed to record any finding in the impugned order, while dealing with the appeal filed by the petitioner, against the order dated 12.01.2022. As such, the order passed by the Divisional Commissioner, Amravati being bad in law, is also liable to be quashed and set aside.

16. From the aforesaid reason, it is clear from the record that the enquiry proceeding initiated against the petitioner was in violation of the provisions of law. Furthermore, the minor penalty imposed against the petitioner is also in violation of Rule 7 of the said Rules. Consequently, the petitioner has made out a case for interference of this Court and accordingly I proceed to pass the following order :

O R D E R

(i) The Writ Petition is allowed.

(ii) The impugned order dated 12.01.2022 passed by Respondent No.2–Chief Executive Officer, Zilla Parishad, Amravati as well as the order dated 30.09.2022 passed by Respondent No.1-Divisional Commissioner, Amravati Division, Amravati is hereby quashed and set aside.

(iii) It is hereby declared that the period of suspension of the petitioner from 07.12.2017 to 19.07.2018 be treated as period of continuity of service and accordingly petitioner is entitled for all consequential benefits arising thereon.

17. Rule is made absolute in the above terms. No costs.

(Pravin S. Patil, J.)