



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

WRIT PETITION NO. 7187 OF 2024

Sudhakar Shriram Hudekar and another

Versus

The Zilla Parishad Buldhana through its Chief Executive Officer,
Buldhana, Dist. Buldhana

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

Court's or Judge's Order

Shri S.M.Vaishnav, Advocate for the petitioners.

Ms. H.N.Jairpurkar, Advocate h/f Shri B.N.Jaipurkar,
Advocate for the respondent.

**CORAM : SMT. M.S. JAWALKAR &
PRAVIN S. PATIL, JJ.**

DATED : 11th AUGUST, 2025.

Heard.

2. By this petition, the petitioner is seeking declaration that departmental inquiry initiated against them vide charge-sheet dated 16th April, 2019 be declared as lapsed and direct the respondents to grant all retiral benefits including regular monthly pension, provident fund and all other retiral dues with interest.

3. It is undisputed fact in the present matter along with petitioner, other two employees of Zilla Parishad, Buldhana were charge-sheeted vide charge-sheet dated 16th April, 2019.

4. It is further also not disputed that respondent Zilla Parishad by order dated 16th March, 2020, appointed common enquiry officer to conduct the inquiry against the present petitioner along with one Shri J.J.Pawar and V.D.Sable.

5. During the course of hearing, petitioner has pointed out that inquiry officer has completed the inquiry and submitted his final report to the respondent - Zilla Parishad. Zilla Parishad in the case of one delinquent employee namely J.J.Pawar by its order dated 22nd January, 2025 by accepting his affidavit, his pensionary benefits are released subject to decision of criminal proceeding pending before the competent criminal Court for misappropriation and Rs.1,00,000/- is only retained subject to decision of the Criminal Court.

6. In the circumstances, it is the submission of the petitioners that same procedure could have been adopted in the case of petitioners and released their pensionary benefits. But same is not done by the respondent - Zilla Parishad and hence according to them there is a

discrimination on the part of respondent - Zilla Parishad in the identical matter.

7. The learned counsel appearing for the respondent - Zilla Parishad admitted that departmental inquiry has been completed on 1st February, 2024 and received the final inquiry report from the inquiry officer. However, in view of Government Circular dated 8th May, 1991, the restrictions are imposed not to issue the punishment order, if the appointing authority is of the view that delinquent employee is liable for a minor punishment.

8. In view of above rival submissions of the parties, we have considered the entire record and the case laws pointed out by both the parties.

9. It is undisputed fact in the present matter that inquiry was started against the petitioner vide charge-sheet dated 16th April, 2019. It is also not disputed that petitioner no.1 has attained the age of superannuation during the pendency of inquiry and the petitioner no.2 Shobha wife of Vinayak Sawale, who being expired, the present petition has been filed through his wife.

10. It is well settled position of law as held by the judgment of Hon'ble Supreme Court in the Prem Nath Bali Vs. Registrar, High Court of Delhi and another reported in 2015(16) SCC, 415 wherein paragraph 28 has observed as under:

28. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.

11. In the present petition, we find that respondent - Zilla Parishad is not justified to not take decision in the inquiry proceeding by relying on Government Circular dated 8th May, 1991. The bare perusal of the Government Circular dated 8th May, 1991 do not find to be issued by applying any logic behind it. According to this circular, if the employer wants to impose minor penalty, then till the decision of criminal proceeding, same cannot be imposed. However, major punishment can be imposed without waiting for the decision of criminal

court. According to us, the criteria laid down in the Circular is unjustified and not stand to the scrutiny of law.

12. It is a well settled position of law that departmental inquiry and criminal proceeding can be conducted simultaneously. Meaning thereby if the department inquiry proceeded to complete the inquiry proceedings, it is always permissible to take decision on the basis of report submitted by the Inquiry Officer, unless there is any contrary order of competent Court of law. So also, there is no provision under any statute prohibiting the employer to take decision on the departmental inquiry once same is concluded by following due procedure of law.

13. We *prima facie* found that Circular relied by the respondent - Zilla Parishad being contrary to the settled principles of law accordingly we hold that respondent committed manifest error by not concluding the departmental inquiry proceeding to its logical end. Hence, for the aforesaid reasons, we pass the following order.

i. The respondent - Chief Executive Officer, Zilla Parishad, Buldhana is hereby directed to take immediate decision on the basis of final inquiry report submitted by Inquiry Officer before him dated 1st

February, 2024 and communicate the same to the petitioners. This exercise should be done by the respondent within a period of 30 days from the date of receipt of this order.

The writ petition is disposed of in the above terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S. JAWALKAR, J.]