



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1891 OF 2026

Ajay s/o Jagan Vyawhare,
Age : 39 years, Occu: Engineer,
R/o : Jijamata Shikshan Colony,
Fateepur Road, Behind Panchayat Samiti,
Tal : Bhokardan, Dist. : Jalna.

-----PETITIONER

VERSUS

1. The Secretary,
Urban Development Department,
4th Floor, Madam Cama Road,
Hutatma Rajguru Marg,
Mumbai-400032
2. The Commissioner and Director,
Municipal Councils and Nagar Panchayats,
Administration Directorate,
Navi Mumbai Municipal Corporation Building,
7th Floor, Belapur Bhavan,
CBD Belapur, Navi Mumbai – 400 614.
3. The Additional Commissioner,
Municipal Councils and Nagar Panchayats,
Administration Directorate,
Navi Mumbai Municipal Corporation Building,
7th Floor, Belapur Bhavan,
CBD Belapur, Navi Mumbai – 400 614.
4. The Collector,
Aurangabad
5. The Chief Officer,
Gangapur Municipal Council,
Dist. Chh. Sambhajinagar

-----RESPONDENTS

Ms. Preeti R. Wankhede, Advocate for petitioner
Ms. Neha B. Kamble, AGP for respondent Nos. 1 to 4

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 24th March, 2026

JUDGMENT (PER : Hiten S. Venegavkar, J.) :-

1. Rule. Rule is made returnable forthwith.
2. Heard the learned Advocate for the petitioner and the learned AGP for the respondents. With the consent of the learned counsel appearing for the parties, the petition is taken up for final disposal at the stage of admission.
3. The present petition is instituted for quashing and setting aside the order dated 24.12.2025 issued by respondent No.2, the Commissioner and Director of Municipal Councils and Nagar Panchayats, whereby a de novo departmental inquiry has been directed against the petitioner and a new Inquiry Officer has been appointed. The petitioner asserts that he possesses the degree of Bachelor of Engineering in Mechanical Engineering and has been in the service of the Urban Development Department since 18.05.2013, as Water Supply and Sanitation Engineer. At present he is posted at Municipal Council, Bhokardan, District Jalna. According to the petitioner, while he was serving in the office of the Chief Officer, Gangapur Municipal Council, certain allegations of misconduct and financial irregularities came to be raised against him in the year 2020. The matter was thereafter pursued

at the departmental level. A preliminary inquiry was directed. Separate preliminary inquiry reports, along with a draft charge-sheet for departmental proceedings under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (for short "**1979 Rules**"), were submitted on 16.06.2023. On that basis, a memorandum of charge dated 17.08.2023 came to be served upon the petitioner containing three charges. It is the case of the petitioner that the inquiry thereafter proceeded to its conclusion and the Inquiry Officer submitted his report to the competent authority. However, without furnishing a copy of that report to the petitioner, and without first taking a decision thereon in the manner known to law, respondent No.2 passed the impugned order dated 24.12.2025 directing a de novo inquiry by appointing another Inquiry Officer. The petitioner submitted a representation dated 06.01.2026 seeking a copy of the earlier inquiry report, but the same was not supplied. Thereafter, the newly appointed Inquiry Officer issued notice dated 04.02.2026 calling upon the petitioner to appear in the fresh inquiry.

4. The learned Advocate for the petitioner submitted that once a regular departmental inquiry was lawfully conducted pursuant to the charge memorandum dated 17.08.2023, and had culminated in submission of an inquiry report, the disciplinary authority could not have simply brushed aside that report and ordered a de novo inquiry on the

very same charges by appointing a new Inquiry Officer. It was urged that such a course is alien to Rule 9 of the 1979 Rules. According to the submission, Rule 9 of the 1979 Rules permits the disciplinary authority to consider the inquiry record, accept the findings, or disagree with the findings by recording reasons; and, in an appropriate case, remit the matter for further inquiry. However, it does not authorize commencement of a second inquiry from the beginning on the same charge-sheet merely because the authority is dissatisfied with the report already received. The learned Advocate further submitted that the petitioner was entitled, at the least, to be furnished the inquiry report and the tentative reasons of disagreement before any adverse step could be taken, since otherwise he would be deprived of the opportunity to meet the reasoning which weighed with the disciplinary authority. Reliance was placed on ***K.R. Deb v. Collector of Central Excise, Shillong***, AIR 1971 SC 1447, the judgment of the Allahabad High Court in ***Rajesh Chaudhary v. State of U.P., 2019*** SCC OnLine All 4781, and the judgment of this Court in ***Nityanand Gajanand Patil v. State of Maharashtra***, Writ Petition No.1135 of 2016, decided on 4 July 2018, reported at 2018(4) All MR 865.

5. The learned AGP, on the other hand, submitted that the petitioner has placed an unduly restrictive construction upon Rule 9 of the 1979 Rules. According to her, once the inquiry report reached the

disciplinary authority, it was open to the authority to take appropriate action upon finding that the report was unsatisfactory or that the inquiry had not properly dealt with the charges. She urged that the expression used in the impugned order should not be construed with undue technicality and that the substance of the decision is that the disciplinary authority was not satisfied with the first inquiry, and therefore, decided that the matter should proceed further. She further submitted that there is no violation of natural justice because after the new Inquiry Officer entered upon the inquiry, notice was issued to the petitioner and the petitioner has, in fact, participated by filing a reply. It was therefore, contended that the challenge is belated and deserves rejection.

6. Having considered the rival submissions, the controversy lies in a narrow compass. The principal question is whether, after an inquiry under Rule 8 has been concluded and an inquiry report has been submitted, the disciplinary authority can, without first acting upon that report in accordance with Rule 9 of the 1979 Rules, direct a de novo inquiry on the same charges by appointing a new Inquiry Officer.

7. For answering that issue, Rule 9 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 which reads as follows -

9. Action on the inquiry report – (1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the

case to the inquiring authority for further inquiry and report, and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 8 of these rules as far as may be.

(2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any, with the findings of inquiring authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation on submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not to the said Government servant.

(2-A) The disciplinary authority shall consider the representation, if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in sub-rules (3) and (4).

(3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the minor penalties should be imposed on the Government servant, it shall, notwithstanding anything contained in Rule 10 of these rules on the basis of the evidence adduced during the inquiry held under Rule 8 determine what penalty, if any, should be imposed on the Government servant and make an order imposing such penalty :

Provided that, in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice, and such advice shall be taken into consideration before making any order imposing any penalty on the Government servant.

(4) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on

the basis of the evidence adduced during the inquiry, is of the opinion that any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of Rule 5, should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed;

Provided that, in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice, and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant.

8. The statutory scheme is, therefore, clear. Once an inquiry report is submitted, the disciplinary authority has to deal with that report. The Rules contemplate three distinct stages. First, under Rule 9 (1) of the 1979 Rules, where further inquiry is considered necessary, the matter may be remitted to the inquiring authority for further inquiry and report, for reasons recorded in writing. Secondly, under Rule 9(2) of the 1979 Rules, the disciplinary authority must consider the inquiry report and record its findings on each charge, and if it disagrees with the Inquiry Officer, it must record reasons for such disagreement and the disciplinary authority shall forward the copy of the report of disagreement, if any, to the Delinquent Officer. Then the Delinquent Officer shall submit his written representation to the authority within 15 days. The copy of the report shall be forwarded irrespective of whether the report is favorable or not and the Delinquent Officer shall be given an

opportunity of being heard. Thirdly, after such consideration of the representation as per rule 9 (2-A) of the 1979 Rules, the authority proceeds to the stage of penalty in accordance with Rule 9(3) or Rule 9(4) of the 1979 Rules, as the case may be. The Rules do not envisage that a concluded inquiry report may be ignored as though it never existed and that an entirely new inquiry may be commenced afresh on the same charges by merely appointing another Inquiry Officer.

9. This position stands fortified by authority. In ***K. R. Deb*** (supra), the Supreme Court, while construing Rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, held that the rule did not contemplate successive inquiries and that, if there had been some serious defect in the inquiry or some important witnesses had not been examined for valid reasons, the disciplinary authority could ask the Inquiry Officer to record further evidence, but not direct a fresh inquiry by another officer merely because it was dissatisfied with the result. That judgment has consistently been treated as laying down the principle that service jurisprudence does not countenance repeated inquiries on the same charge-sheet in the absence of statutory authority.

10. Equally important is the law governing disagreement with an exonerating or otherwise favorable inquiry report. In ***Punjab National Bank v. Kunj Behari Misra*** (1998) 7 SCC 84, the Supreme Court held

that when the disciplinary authority differs from the conclusions of the Inquiry Officer, the delinquent employee must be given an opportunity to represent against the tentative reasons for disagreement before the disciplinary authority records its own final findings. ***Yoginath D. Bagde vs. State of Maharashtra***, (1999) 7 SCC 739, which arose directly in the context of Rule 9(2) of the 1979 Rules of the Maharashtra Rules, reiterates that the requirement of hearing in consonance with natural justice must be read into Rule 9(2) of the 1979 Rules before the disciplinary authority finally disagrees with the findings of the Inquiry Officer. That principle has been reiterated in later decisions as well, including ***Lav Nigam v. Chairman & MD, ITI Ltd.***, (2006) 9 SCC 440.

11. This Court has also followed the same principle. In ***Dr. Vandan s/o Krushnarao Mohod v. Dr. Panjabrao Deshmukh Krishi Vidyapeeth***, 2016(5) All MR 244, the Nagpur Bench held that the delinquent must be afforded an opportunity to meet the adverse findings in the inquiry report and that giving an opportunity only on the question of punishment is not enough. In ***Nityanand Gajanand Patil*** (supra), a Division Bench of this Court was considering an order rejecting an exonerating report and directing a de novo inquiry under the 1979 Rules. The Court held that even if the Rules do not expressly spell out a pre-decisional hearing in those exact terms, compliance with natural justice has to be read into the process when the disciplinary authority proposes

to disagree with the Inquiry Officer and proceed adversely against the employee.

12. The persuasive value of the Allahabad High Court judgment in ***Rajesh Chaudhary*** (supra) lies in the same direction. It recognizes the general principle that ordinarily, there can be only one inquiry in respect of a particular misconduct, and that fresh proceedings on the same charge become permissible where the earlier proceedings are first found defective in law and are set aside on technical or procedural grounds. That principle does not aid the respondents here, because in the present case the earlier inquiry report was not set aside by any competent forum, nor was any defect in the earlier inquiry identified and dealt with in the manner contemplated by the Rules.

13. Tested on the anvil of the above statutory scheme and precedents, the impugned order cannot be sustained in the form in which it is issued. The order dated 24.12.2025 uses the expression “de novo inquiry” and appoints a fresh Inquiry Officer. That course suffers from two fundamental infirmities. First, it bypasses the existing inquiry report altogether. The disciplinary authority could not ignore the already submitted report and straightaway commence a second inquiry on the same articles of charge. Secondly, no material is shown that the petitioner was supplied the earlier inquiry report together with the

reasons why the disciplinary authority proposed not to accept it. If the disciplinary authority was dissatisfied with the report, the law required it to adopt the route recognized by Rule 9 of the 1979 Rules; either remit the matter for further inquiry under Rule 9(1) of the 1979 Rules, or record tentative reasons for disagreement under Rule 9(2) of the 1979 Rules, furnish the report and reasons to the petitioner, consider his representation as contemplated by the current structure of Rule 9 of the 1979 Rules, and only thereafter proceed further. What it could not do was to start from the beginning by appointing another officer to hold a fresh inquiry on the same charge memorandum.

14. The argument of the respondents that the petitioner has participated before the newly appointed Inquiry Officer also does not cure the defect. Participation in proceedings initiated pursuant to an order ex facie beyond the scope of the governing rule does not validate the original illegality. The challenge in the present case goes not to some procedural irregularity in the subsequent hearing, but to the competence of the authority to direct a de novo inquiry in the first place without first acting on the earlier report according to Rule 9 of the 1979 Rules .

15. At the same time, we are unable to accept the wider submission on behalf of the petitioner that once an inquiry report is submitted, the disciplinary authority is bound either to accept it or to get

it set aside by some higher forum before proceeding any further. That proposition travels too far. Rule 9 of the 1979 Rules itself permits the disciplinary authority to disagree with the findings of the Inquiry Officer, provided reasons are recorded and the further course adopted is one authorized by the Rules. Likewise, Rule 9(1) of the 1979 Rules permits remission for further inquiry. Thus, the disciplinary authority is not rendered powerless upon receipt of the report. Its power, however, is structured and not unbridled. It must remain within the framework of Rule 9 of the 1979 Rules and the principles of natural justice read into that rule by binding precedent.

16. In that view of the matter, the proper course is not to foreclose the disciplinary proceedings altogether, but to set aside the impugned order and require the disciplinary authority to proceed afresh from the stage at which the first inquiry report was received. The petitioner must be furnished a copy of that inquiry report if not already supplied. If respondent No.2 proposes to disagree with any part of that report, respondent No.2 shall record tentative reasons for such disagreement and communicate the same to the petitioner along with the report, grant reasonable time to the petitioner to submit his representation, consider that representation, and thereafter pass an appropriate order strictly in accordance with Rule 9 of the 1979 Rules. If respondent No.2 is of the view that any further inquiry is necessary on

account of any identified defect or omission in the earlier inquiry, it may adopt only such course as is permissible under Rule 9(1) of the 1979 Rules and law declared by the Supreme Court; but the order directing a de novo inquiry by appointing a fresh Inquiry Officer on the same charge-sheet, as presently made, cannot stand.

17. Accordingly, the petition is partly allowed. The impugned order dated 24.12.2025 issued by respondent No.2 is quashed and set aside. Respondent No.2 shall first furnish copy of the earlier inquiry report to the petitioner, within two weeks, if not already furnished. Thereafter respondent No.2 shall be at liberty to proceed from that stage in accordance with Rule 9 of the 1979 Rules, by recording reasons, supplying the same to the petitioner, considering his response, and then taking such further decision as may be permissible in law. It is clarified that this Court has not expressed any opinion on the merits of the charges levelled against the petitioner. Rule is made absolute in the above terms. No order as to costs.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi