

lge

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

WRIT PETITION NO.5447 OF 2009

Mr.Gopalrao Bapurao Bhamre

: Petitioner

versus

Zilla Parishad, Nasik & ors.

: Respondents.

Mr. Anilkumar Patil for the Petitioner.

Mr. Ramesh Gite i/by Mr. V V Gangurde for Respondent No.1.

Smt. S S Bhende, AGP for the Respondent Nos. 4 and 5.

**CORAM : P B MAJMUDAR &
R M SAVANT, JJ.**

DATE : 30th June 2010

P.C.

1 By way of the present Petition, the Petitioner has challenged the order dated 18.12.2006, which is annexed at Exhibit J to the Petition, by the said order the Petitioner has been subjected to minor punishment of “Stigma” to be recorded in the service record. By the subsequent order dated 15.9.2008, which is annexed at Exhibit M to the Petition, the Chief Executive Officer, Zilla Parishad Nashik has rejected the prayer of the Petitioner for treating the suspension period as on duty and the same has been treated as leave without pay. The said order was confirmed by the Additional Commissioner, Nasik Division, Nasik in Appeal No.40/2008 preferred by the Petitioner.

2. The Petitioner is personally present in the Court today. On the instructions of the Petitioner, the learned counsel for the Petitioner has made his submissions. The learned counsel for the Petitioner submitted that though it is the case of the Petitioner that he had not committed any misconduct, the punishment even it is a minor punishment of "Stigma", the same is not justified and, when the Chief Executive Officer has exonerated him and though the Disciplinary Authority has not accepted the report of the Chief Executive Officer, still in order to maintain cordial relations with the administration, he is not pressing his prayer as regards the order imposing minor punishment of "Stigma". However, according to him, the entire suspension period should not be treated as a leave without pay. The learned counsel for the Petitioner further submitted that if an opportunity is given in that behalf, the Petitioner will show that this is not a case in which the entire period of suspension can be treated as leave without pay and he would like to make a representation against the aforesaid order dated 15/9/2008 passed by the Chief Executive Officer, Zilla Parishad, Nasik.

3 By way of indulgence, we permit the Petitioner to make an appropriate representation to the Chief Executive Officer, Zilla Parishad,

Nasik though we are aware that the appeal preferred by the Petitioner against the said order dated 15.9.2008 has also been rejected by the Addl. Commissioner, Nasik Division, Nasik.

4 If such a representation is made by the Petitioner, within a period of three weeks from date, the concerned authority may decide the said representation and pass a fresh order on the said representation without being influenced by the fact that minor penalty of “Stigma” has been given and without being influenced by the order of the Appellate Authority.

5 It is also clarified that whatever may be the decision that would be given by the Chief Executive Officer, Zilla Parishad, Nasik on the representation of the Petitioner, the same would conclude the issue raised by the Petitioner and the same will not give a fresh cause of action to the Petitioner.

6 We hope and trust that the Chief Executive Officer, Zilla Parishad, Nasik would take an objective stand whilst deciding the said representation of the Petitioner and may pass appropriate orders in accordance with law and communicate the same to the Petitioner

forthwith. The Chief Executive Officer, Zilla Parishad, Nasik, to decide the said representation of the Petitioner within a period of three weeks from date. Hence as observed earlier, whatever may be the decision that would be rendered on the representation of the Petitioner, that would be the final decision and the same shall be accepted by the Petitioner and the Petitioner shall not file and/or adopt further proceedings in that behalf.

7 The above Petition is disposed of to the aforesaid extent.

[R.M.SAVANT, J]

[P.B.MAJMUDAR, J]