

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 644 OF 2023

(Subject – Suspension)

DISTRICT : PARBHANI

Asha Balaji Garud,)
Age : 43 years, Occu. : Service (as Education Officer,))
R/o : Jijamata Road, Parbhani,)
Tq. and District Parbhani.)
.... **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through its Chief Secretary,)
School Education and Sports Department,))
Mantralaya, Mumbai-32.)
2. **The Deputy Secretary,**)
School Education and Sports Department,))
Mantralaya, Mumbai-32.)
3. **The Commissioner (Education),**)
Agarkar Nagar, Maharashtra State,)
Pune-411001.)
4. **The Director of Education (Secondary,))
and Higher Secondary)**
Directorate of Education, Maharashtra)
State, Pune, Central Building, B.J.)
Medical Road, Agarkar Nagar, Pune-01.)
5. **The Divisional Deputy Director of Education,))
Aurangabad Division, Aurangabad.)**
6. **The Chief Executive Officer,**)
Zilla Parishad, Parbhani, District Parbhani.)

... RESPONDENTS

APPEARANCE : Shri A.B. Girase, counsel holding for Shri P.D. Bachate, Counsel for the Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,
Presenting Officer for respondent authorities.

: Shri S.G. Joshi, counsel for respondent No. 6.

CORAM : Hon'ble Justice Shri P.R. Bora, Vice Chairman

Reserved on : 17.10.2023.

Pronounced on : 24.11.2023

ORDER

1. Heard Shri A.B. Girase, learned counsel holding for Shri P.D. Bachate, learned counsel for the applicant, Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for respondent authorities and Shri S.G. Joshi, learned counsel for respondent No. 6.

2. By filing the present Original Application, the applicant has challenged the order of her suspension issued by respondent No. 2 on 10.07.2023.

3. The applicant is presently working as Education Officer (Secondary), Zilla Parishad, Parbhani. As is revealing from the order of suspension, the applicant has been suspended in contemplation of Departmental Enquiry against her for the

alleged illegal approvals allegedly granted by her while working as Education Officer (Primary), Zilla Parishad, Parbhani. It is alleged that while working as Education Officer (Primary), Zilla Parishad, Parbhani, the applicant on the basis of false documents granted approvals to the appointments of Head Masters, Assistant Teachers, Art Teachers and non-teaching staff working in the private educational institutions.

4. It is the contention of the applicant that while discharging duties as Education Officer (Primary) and in-charge Education Officer (Secondary), Zilla Parishad, Parbhani, the work of the applicant was appreciated by her superior officers. It is further contended that in the month of March 2022, journalist namely Shri M.B. Bhise and Social Workers Shri Govind Yadav and Shri Nivas Ughade made complaints before the Deputy Director of Education, Aurangabad Division, Aurangabad alleging that the applicant granted approvals on aided posts without verifying procedure adopted by the management while filling the vacant posts on aided divisions. It is the further contention of the applicant that on receiving the complaints as aforesaid, the Deputy Director of Education, Aurangabad Division, Aurangabad vide his order dated 22.05.2022 appointed the committee for conducting the enquiry in regard to grant of approvals by the

applicant. As further contended, later on the enquiry committee was again reconstituted vide order dated 01.06.2022. It is the further contention of the applicant that the enquiry committee conducted the enquiry and submitted the report before the respondent No. 3 i.e. the Commissioner of Education, Maharashtra State, Pune, wherein it is recorded that the applicant and one Shri Vitthal Bhusare, the then Education officer accorded approval to the employees contrary to the Government Resolutions/ Circulars, which caused great financial burden on the State Government for the period from January, 2021 to 20.09.2021. It is the contention of the applicant that she took charge of the post of Education Officer (Secondary), Zilla Parishad, Parbhani on 21.09.2021 and as such, there was no occasion for her to grant approval prior to 21.09.2021. As further contended, the allegations in the enquiry are of the approvals granted between January, 2021 and 20.09.2021, whereas the applicant took additional charge of the post of Education Officer (Secondary), Zilla Parishad, Parbhani on 21.09.2021. It is further contended that another enquiry committee consisting of Special Executive Officer, office of Commissionerate of Education, Education Officer (Primary), Zilla Parishad, Latur, Superintendent, Directorate of Primary

Education, Administration Officer (Secondary and Higher Secondary) submitted its report to respondent No. 3 vide covering letter dated 10.11.2022 along with chart containing the details of disputed approval orders. As per the contention of the applicant perusal of the said enquiry report, demonstrate that the applicant did not have any connection in granting disputed approvals from January, 2021 to 20.09.2021. It is, therefore, contention of the applicant that the order of suspension passed against her is contrary to the facts, as well as, legal provisions. The applicant has therefore, prayed for quashment of the order of suspension.

5. Respondent Nos. 1, 3 and 4 have jointly filed their affidavit in reply, whereas respondent No. 6 has filed his separate affidavit in reply. The respondents have denied the contentions raised in the Original Application. It is contended that in report dated 18.08.2022, the particulars in regard to the illegal approvals granted by the applicant are provided. It is the further contention of these respondents that there is sufficient evidence on record showing that the applicant has granted illegal approvals to the employees of the private educational institutions without having any documents or on the basis of false and forged

documents. The respondents have therefore, prayed for dismissal of the Original Application.

6. The applicant has filed on record affidavit in the form of undertaking contending therein that during the period from 30.06.2015 to 28.05.2019, while she was discharging her duties as Education Officer (Primary), Zilla Parishad, Parbhani, no irregularities are committed by the applicant and the applicant has not granted any approvals illegally. The applicant has further averred that if the statement made by the applicant that in the aforesaid period no illegal approval is granted by her is found incorrect and untrue, the applicant would unconditionally withdraw the present Original Application.

7. Learned counsel for the applicant vehemently argued that without any sufficient cause and for wrong reasons, the applicant has been suspended. Learned counsel submitted that as is revealing from the order of suspension, the enquiry is contemplated against the applicant for the misconduct allegedly committed by her while working on the post of Education Officer (Primary), Zilla Parishad, Parbhani. Learned counsel submitted that the applicant worked as Education Officer (Primary), Zilla Parishad, Parbhani during the period between 30.06.2015 till

28.05.2019 and during the said period, there was absolutely no complaint against the applicant of granting any illegal approval for any appointment. Learned counsel further submitted that on the contrary, in the enquiry conducted into alleged irregularities allegedly committed by the applicant while working on the post of Education Officer (Primary), Zilla Parishad, Parbhani, learned Chief Executive Officer, Zilla Parishad, Parbhani has accepted the explanation given by the applicant. Learned counsel brought to my notice the report so submitted in that regard by the Chief Executive Officer, Zilla Parishad, Parbhani to the Commissioner of Education, Maharashtra State, Pune on 16.12.2021 (Exhibit A-11).

8. Learned counsel for the applicant further submitted that the allegation against the applicant that she illegally granted individual approvals to about 13 Teachers working in the Parbhani Education Society, Parbhani was held to have been not proved in the enquiry conducted in that regard by the Deputy Director of Education, Aurangabad Region, Aurangabad. Learned counsel invited my attention to the another allegation as about inaction on part of the applicant in absorption of Shri Panchal, Surplus Teacher in Annabhau Sathe School, Jintur and submitted that the said charge also has not been proved against

her. Learned counsel submitted that the evidence, which is brought on record by the applicant sufficiently proves that the applicant has been unnecessarily and without any sufficient cause suspended vide impugned order. Learned counsel submitted that the said suspension order therefore, deserves to be set aside.

9. Learned Presenting Officer supported the impugned order of suspension. Referring to and reiterating the contentions raised in the affidavit in reply filed on behalf of respondent Nos. 1, 3 & 5, as well as, by respondent No. 6, learned P.O. submitted that sufficient primary evince is available on record showing that the applicant has illegally accorded approvals to the appointments of some of the Teachers, because of which the State is subjected to bear huge financial burden. Learned P.O. in the circumstances, prayed for dismissal of the Original Application.

10. I have duly considered the submissions made on behalf of the applicant, as well as, the respondent authorities. I have also gone through the documents placed on record by the parties. Applicant has been suspended vide the impugned order in contemplation of the departmental enquiry against her in

respect of the approvals granted by her to the appointments of Headmasters, Assistant Teachers, Art Teachers and Non-teaching staff working in the private educational institutions allegedly on the basis of the false documents. It is also alleged that by giving such approvals the applicant has subjected the State to heavy financial burden.

11. Applicant has denied the allegations against her. As has been submitted on behalf of the applicant, the enquiry was already conducted into the misconduct alleged against her in the impugned order and nothing was revealed against the applicant. There appears substance in the contention as has been raised on behalf of the applicant. The documents on record reveal that earlier on 30.7.2019 the charge-sheet was served upon the applicant raising certain allegation against her. The documents further reveal that total 6 charges were levelled against the applicant. The main allegation against her was that she granted illegal approvals to 13 teachers working in the Parbhani Education Society, Parbhani despite the fact that the dispute about management of the said society was subjudice at the relevant time. In the enquiry the said charge was held to be not proved. Similar was the case in respect of the three charges levelled against the applicant.

12. One of the two charges, which were held to have been partly proved, was in respect of failure on the part of the applicant in keeping supervisory control over the subordinate employees and inaction in not taking any decision on the communications received and to keep the same pending. Insofar as the aforesaid charge is concerned, the Chief Executive Officer of Zilla Parishad, Parbhani has submitted his remark that no case at the level of the applicant was pending and that in respect of not taking any steps in respect of the communications received, no prejudicial action was initiated by anybody. Charge No. 5, which was also held to have been partly proved, was in respect of not giving information to one editor under RTI Act. In respect of the said charge the C.E.O. Z.P. Parbhani has endorsed his remark that the information sought was of personal nature and the applicant was instructed not to provide any such personal information. Sum and substance is that none of the charge was found to be proved against the applicant. The remarks submitted by C.E.O. Z.P., Parbhani are at Exhibit-A11.

13. Subsequently, the report on the said allegations was called from Deputy Director of Education also and the Deputy Director of Education vide his communication dated 2.11.2022 addressed to the Commissioner of Education has opined that

though the then Deputy Director of Education has cancelled the approvals granted by the applicant to the Teachers of Parbhani Education Society, Parbhani, in revision preferred by the Educational Institution before the Deputy Director of Education through the Education Officer, the then Deputy Director of Education restored the approvals granted to the appointments of said teachers. It was also reported that said teachers have been continued and were discharging their duties and were also being paid their salary.

14. In respect of the delay in absorption of surplus teacher in Annabhau Sathe School, Selu, namely Shri Panchal, also the Deputy Director of Education has reported that due efforts were made by the applicant for absorption of Shri Panchal, however, the concerned school did not allow Shri Panchal to join and ultimately Shri Panchal was absorbed in Zilla Parishad School at Shivachiwadi. It is also reported that said order was also cancelled, however, Shri Panchal approached the Hon'ble High Court and under the orders of Hon'ble High Court, Shri Panchal has been absorbed in Zilla Parisahad School at Selu. It is thus evident that the enquiry was already conducted against the applicant for the misconduct alleged against her while working on the post of Education Officer (Primary) Zilla

Parishad, Parbhani and none of the charge raised against the applicant was held to have been proved.

15. Considering the facts as aforesaid, there appears substance in the contentions raised on behalf of the applicant that the order of suspension has been passed against the applicant without any application of mind and without any sufficient and cogent reason therefor. In the affidavit in reply filed on behalf of respondents, it is nowhere disclosed whether the Departmental Enquiry contemplated against the applicant as mentioned in the impugned order is in respect of some another charges against the applicant. On the contrary from contents of the impugned order, it is evident that on the same allegation that the applicant illegally granted approvals on the basis of false documents to the Teachers working in the school run by Parbhani Education Society, the enquiry is again contemplated.

16. In the affidavit in reply the respondents have referred to some of the instances of granting approvals by the applicant while working on the post of Education Officer (Secondary), Zilla Parishad, Parbhani, however, no enquiry is contemplated against the applicant in that regard so as to suspend the applicant by

invoking the provisions under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

17. After having considered the facts revealed from the pleadings of the parties and after having considered the documents produced on record by the parties, I am convinced that the order of suspension impugned in the present Original Application has been issued without any application of mind and without cogent and sufficient reason therefor. I am conscious of the legal principle that the scope of judicial review is limited in case of suspension for the reason that passing of suspension order is of an administrative nature and suspension is not a punishment. However, at the same time, it also cannot be lost sight of that the power of suspension should not be exercised in an arbitrary manner and without any reasonable ground or else it would amount to vindictive misuse of power. The Hon'ble Apex Court time and again has ruled that the suspension should be ordered only in a case where there is a strong prima-facie case against the delinquent employee and allegations involving moral turpitude, grave misconduct or indiscipline are there. In the present matter as I have elaborately discussed hereinabove, there is no such material so as to uphold the order of suspension initiated in contemplation of Departmental Enquiry in to the

misconduct alleged against the applicant while working as Education Officer (Primary), Zilla Parishad, Parbhani. It has also to be considered that the suspension order constitutes a great hardship to the person concerned and adversely affects his prospects of promotion and also attaches stigma on his career. Hon'ble Apex Court has therefore, consistently observed that the order of suspension should not be made in perfunctory or in a routine or casual manner, but with due care and caution after taking all factors into account.

18. For the reasons stated above, the impugned order of suspension cannot be sustained and deserves to be set aside. In the result, the following order is passed :-

ORDER

- (i) The order dated 10.07.2023 impugned in the present Original Application is quashed and set aside.
- (ii) Respondents are directed to forthwith reinstate the applicant on the post from which she was suspended.
- (iii) The Original Application stands allowed in the aforesaid terms without any order as to costs.

PLACE : Aurangabad.

DATE : 24.11.2023

KPB S.B. O.A. No. 644 of 2023 PRB Suspension

(Justice P.R. Bora)

Vice Chairman