MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 165/2020(D.B.)

Shishirbaba Kawaduji Ghonmode,

Aged about 61 years, Occupation: Retired,

R/o C/o Yesugan, Back side of Police Station,

Pimpalneri Road, Wadala, Chimur,

Tq. Chimur, District: Chandrapur.

Applicant.

Versus

1.   The State of Maharashtra,

         Through its Secretary,

         School Education and Sports Department,

         Mantralaya, Mumbai-440 032.

2.   Deputy Director of Education,

         Nagpur Division, Nagpur, Balbharati,

         Near Dhantoli Garden, Dhantoli, Nagpur-440 012.

3.   Enquiry Officer,

         Regional Enquiry Officer,

         Old Secretary Building 1st Floor,

         Room No.86, Civil Lines, Nagpur.

Respondents.

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Shri S.A.Radke, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

<u>**Coram**</u>:-**Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &**
                    Hon'ble Shri Nitin Gadre, Member (A).
<u>**Dated**</u>: - **20th September, 2024.**

JUDGMENT

Heard Shri S.A.Radke, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the respondents.

2.   The case of the applicant in short is as under.

The applicant was working in Zilla Parishad Chandrapur as an Education Officer in the year 2006. At that time Chief Executive Officer, Zilla Parishad Chandrapur has sent a proposal to the Secretary of State Government of Education and Sports Department against the applicant for initiating departmental enquiry for the charges of serious irregularity.   It is submitted that the respondents have wrongly initiated departmental enquiry.   Therefore, the applicant has filed the present O.A. for the following reliefs-

> *1)   quash and set aside letter dated 10th February 2020 issued by respondent no.3 to start the departmental enquiry, in the interest of justice,*
>
> *2)   grant any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*
>
> <u>*Interim relief:*</u>
>
> *During the pendency of the original application the applicant prays for following relief.*
>
> *It is, therefore, prayed that this Hon'ble Tribunal may kindly be pleased to stay the effect and implementation of letter*

dated 13th February 2020 issued by respondent no.2 and 3 to start the departmental enquiry.

3.   The O.A. is strongly opposed by the respondents. It is submitted that applicant has committed misconduct and therefore departmental enquiry is initiated. The departmental enquiry is pending against the applicant. Hence, the O.A. is liable to be dismissed.

4.   During the course of submission, the learned counsel for the applicant has submitted that, the applicant has not committed any misconduct and therefore departmental enquiry cannot be initiated. In the reply in para 7, the respondents have pointed out that the applicant remained absent in the hearing conducted before the Enquiry Officer. Therefore, departmental enquiry is pending. The respondents are at liberty to conduct the departmental enquiry in respect of the misconduct committed by the applicant.

5.   Respondents cannot be restrained to initiate the departmental enquiry in respect of the misconduct. It is the right of the employer / State to initiate departmental enquiry for the misconduct committed by the applicant / employee. The prayer in the O.A. cannot be granted by this Tribunal. In the prayer clause no.1, the applicant has prayed to set aside the letter dated 10.02.2020 issued by respondent no.3 to start the departmental enquiry. Now,

the departmental enquiry is already initiated against the applicant.

Therefore, relief prayed by the applicant cannot be granted.   Hence,

we pass the following order-

ORDER

The O.A. is dismissed with no order as to costs.

(Nitin Gadre)   **(Justice M.G.Giratkar)**
 Member(A)   **Vice Chairman**

Dated – 20/09/2024.
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno   :   Raksha Shashikant Mankawde.

Court Name   :   Court of Hon'ble Vice Chairman

                              & Hon'ble Member (A).

Judgment signed on   :   20/09/2024.

and pronounced on

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