

(2022) 07 GUJ CK 0063
In the Gujarat High Court

Case No : R/Special Civil Application No. 19658 Of 2019, Civil Application (For Stay) No. 1 Of 2019

Gilbert Chhotalal Macwan

APPELLANT

Vs

Gujarat State Pharmacy Council & 1 Other(S)

RESPONDENT

Date of Decision : 19-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226
Gujarat Civil Services (Discipline And Appeal) Rules, 1971 — Rule 6(4), 6(5), 6(6), 6(7), 6(8), 9, 9(1), 10
Gujarat Civil Services (Conduct) Rules, 1971 — Rule 3B
Pharmacy Act, 1948 — Section 12, 16

Citation : (2022) 07 GUJ CK 0063

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Shalin Mehta, Aditya J Pandya, Hm Parikh, Hemang H Parikh, Utkarsh Sharma

Final Decision : Dismissed

Judgement

Biren Vaishnav, J

1. Rule returnable forthwith. Mr. Hemang Parikh, learned advocate appearing for the respondent waives service of notice of rule.
2. In this petition, under Article 226 of the Constitution of India, the petitioner has challenged the order dated 21. 08.2019 by which he has been dismissed from service.
3. Facts in brief would indicate that the petitioner was appointed as an Additional Registrar on 25.10.2010. Thereafter, as the post of Registrar fell vacant, the petitioner was so appointed on 28.01.2014. It is the case of the petitioner that the respondent no. 1 – Gujarat State Pharmacy Council was receiving various applications for registration of Pharmacists from candidates who had cleared their examination from a University outside the State. A sub-committee of the

Council held a meeting and it was decided to request the Pharmacy Council of India to conduct a surprise inspection of various institutes and Universities situated outside Gujarat. It was also decided to request the Pharmacy Council of India to carry out the inspection.

3.1 At the 35th meeting of the Executive Committee held on 16.07.2018, the Executive Committee decided to do verification of the students and their degrees in context of the institutions from which they had undertaken the course. The committee visited certain colleges namely the Pacific College of Pharmacy, Malwa College of Pharmacy and Sunrise College of Pharmacy and submitted a report with regard to the irregularities in such institutions. This was in context of the verification of the authenticity of the candidates who had applied to the Pharmacy Council.

3.2 On 18.09.2018, at its meeting, the Executive Committee decided to initiate action against these institutions and it was further resolved to cover agents and other persons who are involved in these activities. A resolution was therefore passed that a complaint be filed. At the 36th meeting of the Executive Committee, it was therefore decided accordingly. As a result of the resolutions of the Executive Committee, to initiate actions against these institutions, the petitioner as the Additional Registrar addressed a detailed police complaint on 12.10.2018 to the Director General of Police, CID Crime.

In the meanwhile, on 21.01.2019, an email was received from the Pharmacy Council of India informing the Council – respondent no. 1 herein that the State Pharmacy Council had no authority to inspect Pharmacy Institutes under Sections 12 and 16 of The Pharmacy Act 1948. The Pharmacy Council of India therefore directed the Pharmacy Council of Gujarat to restrict its activities in providing registration to pharmacists in order to maintain the sanctity of the Act. Under the signature of the petitioner, the Council responded on 29.01.2019 stating that it had only requested the candidates for verification of documents and had not demanded any information that would go against the provisions of Sections 12 and 16 of the Pharmacy Act. A letter was also addressed by the Pharmacy Council of India on 20.03.2019 reiterating that the Gujarat State Pharmacy Council should restrict its activities in accordance with the mandate of the Pharmacy Act.

3.3 By virtue of the two letters of the Pharmacy Council of India, considering the fact that the respondent no. 1 had no authority to carry out inspection of the college and their activities were restricted only to provide registration to students, and with a view to avoid any conflict between the Pharmacy Council of India and the State Pharmacy Council as the Executive Committee was not inclined to include and circulate the agenda with regard to the conflict in the two institutions, the petitioner addressed a letter on 25.04.2019 to the police authorities that the complaint that was filed may be withdrawn. This letter of 25.04.2019 was written by the petitioner to the Police Inspector, CID Crime for withdrawing the complaint was not appreciated by the Pharmacy Council and a

show-cause notice was issued to the petitioner asking the petitioner to show cause as to under what circumstances did the petitioner and under whose authority did he address a letter to the police to withdraw the complaint against the erring candidates.

3.4 On 15.07.2019, a detailed show-cause notice was issued to the petitioner, the sum and substance of which was that once the petitioner was authorized by a complaint to the CID Crime branch, on the basis of the resolution of the Executive Committee, without taking the Executive Committee into confidence, the petitioner had written a direct letter to the CID Crime on 25.04.2019 asking them to withdraw the action or the complaint against the institutions.

3.5 To the show-cause notice, the petitioner addressed a letter asking for certain documents based on which he could respond. On 14.05.2019, the petitioner was suspended. An inquiry committee was constituted to look into the matter to which the petitioner responded and said that he had an objection to the constitution of the inquiry committee which had a member who had passed the order of penalty. In response to the show-cause notice, the petitioner gave a reply on 23.07.2019 seeking various documents vital to the petitioner. The request of the petitioner was turned down and a rojakam was prepared in a meeting that was held by the committee.

3.6 The petitioner on 02.08.2019 gave a reply again to the show-cause notice pursuant to which, on 09.08.2019, a rojakam was prepared wherein according to the petitioner, the inquiry committee opined that the conduct of the petitioner was suspicious and therefore a decision be taken on the question of penalty that can be imposed on the petitioner including stoppage of one increment with future effect as a minimum penalty or penalty of removal from service after issuing a notice etc.

3.7 Based on this rojakam, apprehending that the petitioner shall face dismissal, the petitioner by a letter apologized to the committee of the Council saying that it may be possible that his conduct in indulging in such exchange of letters may be pardoned and he may be inflicted with a lower penalty. He also reiterated that request in his representation made to the Additional Chief Secretary, Health and Family Welfare despite which by the impugned order he was removed from service.

4. Mr. Shalin Mehta, learned Senior Advocate appearing with Mr. Aditya Pandya, learned advocate for the petitioner, after having taken the court through the facts would submit that the order of removal from service was in violation of principles of natural justice. Based on a complaint which was filed by the petitioner, which according to him, was rightly withdrawn pursuant to the exchange of communications between the Pharmacy Council of India and the State Pharmacy Council, the petitioner addressed a letter to the police authorities seeking to withdraw the complaint.

4.1 A show-cause notice dated 15.07.2019 was issued asking for the petitioner

to appear before the inquiry committee on 23.07.2019. The petitioner asked for certain documents. He made a representation on 02.08.2019 when the documents were not supplied and he apologized. Pointing out to the rojkam, it was also submitted by Mr. Mehta, learned Senior Advocate that expecting that since the committee had decided to dismiss the petitioner from service, he apologized and therefore expected that the petitioner will be inflicted with a lower penalty. He would submit that it was improper for the respondent Council to misconstrue the apology as an admission of guilt and pass an order of removal from service which is under challenge in this petition.

4.2 Mr. Mehta would admit that from the orders of appointment and the orders of pay fixation, it is an admitted fact that in case of the petitioner the applicable rules for the purposes of conducting an inquiry at the Gujarat Civil Services (Discipline and Appeal) Rules, 1971 (for short 'the Rules'). He would invite the attention of the provisions of Rule 9 of the Rules and submit that the procedure so envisaged under the Rules has not been followed. No charge-sheet was issued to the petitioner, no inquiry was held and only on the basis of a show-cause notice, a committee was constituted. The committee on the basis of his representation came to a conclusion that a penalty be imposed.

4.3 Mr. Mehta would submit that there were no exchange of witness or examination or cross-examination of witnesses as is expected of the procedure under the rules. The guilty plea was recorded by the committee but it was not in fact a guilty plea but as it was promised as is pointed out in the representation dated 23.08.2019, the petitioner expected a lower penalty which was not done and based on a misconstruction of the apology as an admission, the petitioner has been removed from service. The order of removal without following the procedure envisaged under the Act and the Rules is bad because it is the fundamental right of the petitioner to be in service and continue in service and not be removed except in accordance with the proper procedure that may be followed.

5. Mr. H.M. Parikh, learned Senior Advocate has appeared with Mr. Hemang Parikh, learned advocate for the Council. He would submit that it is a misconstruction and misconstruing of facts by the petitioner. The nature of inquiry that the petitioner was expected to undertake, as is evident from reading the complaint, is not about inspection into the institutions which were named therein but with regard to the degrees that the candidates would undertake in the course and their veracity that was to be examined. It therefore did not fall within the domains of Sections 12 and 16 of the Pharmacy Act.

5.1 Even the candidate who are not registered as Pharmacists based on their degree certificates had approached this court against the inaction of the Council and the litigation was pending. He would submit that the first letter was therefore rightly written by him because it was not in context of an inquiry regarding institutional inspection.

5.2 Mr. Parikh would submit that the action of the petitioner in withdrawing the complaint filed under the instructions of respondent no. 2 without keeping the Executive Committee of the Council and doing so unilaterally amounted to clear insubordination on his part for which he was liable to a penalty. Admitting the fact that the case of the petitioner was governed by the Rules, Mr. Parikh would submit that the stage of constituting an inquiry in accordance with the Rules and issuance of charge-sheet did not arise in view of the fact that from the rojkam, it is evident that in light of his representation asking for an apology was in fact an admission of his misdemeanour and therefore it was decided not to hold a further inquiry but to punish him in view of his clear admission. He would therefore submit that in view of a clear admission made in the representation on 02.08.2019, there was no need for the council to undertake a detailed inquiry into the aspect of the role that the petitioner had played and the order of removal therefore was just and proper.

5.3 In support of his submissions Mr. Parikh relied on the following decisions:

(I) Principal, Sardar Patel High School vs. Chunibhai Nathubhai Raval [1993(1) GLR 642]. Reliance was placed on paras 9 and 10 to submit that in case it was found that there was an admission made by a delinquent and he had expressed an apology there was no error or violation of principles of natural justice and a departmental inquiry was not necessary to be held.

(ii) Channabasappa Basappa Happali vs. The State of Mysore [(1971) 1 SCC 1]. Reliance was placed on paras 4 and 5 in support of his admission that in case of admitted facts, it was not necessary to hold an inquiry as the facts speak for themselves.

(iii) Chairman and Managing Director, V.S.P vs. Goparaju Sri Prabhakara Hari Babu [(2008) 5 SCC 569, particularly para 16 thereof.

6. Considering the submissions made by the learned counsels for the respective parties, the only question that needs to be decided by this court is whether the order of removal from service passed on 21.08.2019 was in consonance with the procedure prescribed under the Rules. It is in this context, without in detail advertng to and reiterating the facts, what is evident to note is that the Gujarat State Pharmacy Council in its meeting of the Executive Committee passed a resolution to the effect that the verification of authenticity of candidates who had applied for registration to the Gujarat State Pharmacy Council may be undertaken. With a view to undertake the verification of the authenticity of the candidates, an inquiry committee was constituted and the committee was requested to personally visit the institutions/colleges/ universities of the candidates where they studied and verify the authenticity of the candidate and a finding and a report be submitted.

6.1 Based on this, the committee carried out the verification of the institutions in question which are named in the show-cause notice and submitted a report suggesting that before the registration of such students inquiry and

investigations are required in respect of malafides and suspected acts of the said institutions. In light of this report, the Executive Committee resolved and authorized the petitioner to file an appropriate complaint before the police authorities. Based on this resolution, on 12.10.2018, the petitioner under his signature by addressing a letter to the Director General of Police, CID Crime requested the police authorities to undertake an exercise of verification.

6.2 Based on this complaint, it appears that the Pharmacy Council of India on 21.01.2019, opined that the stand of the Gujarat Pharmacy Council in inspecting these institutions was in contravention of the provisions of the Act and the Council therefore should restrict its activities within the mandate of the Act. Apprehending a conflict of interest between the Council, the State Council – respondent no. 1 and the Pharmacy Council of India and despite a resolution of the State Pharmacy Council to look into the issue, on 25.04.2019, the petitioner addressed a letter to the police inspector, CID Crime opining that in view of the email exchanges between the State Council and the Pharmacy Council of India, no further action be taken in context of the letter dated 12.10.2018 and the complaint be taken as withdrawn. This action of the petitioner has been taken as an act of insubordination.

6.3 A show-cause notice therefore was issued on 15.07.2019 asking the petitioner to show-cause as to under what circumstances without taking the Executive Council into confidence did the petitioner address a letter to the CID Crime for withdrawing the complaint. Extensive documents have been referred to in the show-cause notice asking the petitioner to show cause as to why such a letter was written. To this, the petitioner responded on 23.07.2019 asking for certain documents which according to Mr. Parikh, learned Senior Advocate for the Council were irrelevant. Based on the reply to the show-cause notice, a rojkam was held and it was decided that a notice be given to the petitioner in light of what he had stated and consider imposing a penalty of stoppage of one increment and removal. In light of the apology tendered by the petitioner, the order of removal was passed taking it as an admission.

7. It is an undisputed proposition that in case of the petitioner the Gujarat Civil Services (Discipline and Appeal) Rules, 1971 are applicable. Rule 9 which deals with the procedure for imposing penalties especially Rules 1 to 10 read as under:

“9. Procedure for imposing major penalties:-

(1) No order imposing any of the penalties specified in items (4) to (8) of rule 6 shall be passed except after an inquiry, held as far as may be, in the manner provided in this rule and rule 10 or in the manner provided by the Public Servants (Inquiry) Act, 1850 where such inquiry is held under that Act.

(2) Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiry into the truth of any imputation of misconduct or misbehavior or of any culpable act or omission, against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servant

(Inquiry) Act, 1850 as the case may be, an authority to inquire into the truth thereof (herein-after referred to as the Inquiry Authority)

Provided that where there is a complaint of sexual harassment within the meaning of rule + 3-B of the Gujarat Civil services (Conduct) Rules,1971, the complaints committee established in each Department or Office for inquiring into such complaints, shall be deemed to be the inquiry authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Explanation :- Where the disciplinary authority itself holds the inquiry, any reference in these rules to the Inquiry Authority shall be construed as a reference to the disciplinary Authority..

(3) Where it is proposed to hold an inquiry against a Government servant under this rule or rule 10, the Disciplinary Authority shall draw up or cause to be drawn up-

(i) the substance of the imputations of misconduct or misbehavior or of any culpable act or omission into definite and distinct articles of charge;

(ii) a statement of the imputations of misconduct or misbehavior or of any culpable act or omission in support of each article of charge, which shall contain-

(a) a statement of all relevant facts including any admission or confession made by the Government servant; and

(b) a list of documents by which, and a list of witnesses by whom the articles of charges are proposed to be sustained.

(4) The Disciplinary Authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehavior or of any culpable act or omission and a list of documents and witnesses by which each article of charges is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence, the Disciplinary Authority may itself inquire into such of the articles of charges as are not admitted or if considers it necessary, to do so appoint, under sub-rule (2) an Inquiry Authority for the purpose and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the Disciplinary Authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 10.

(b) If no written statement of defence is submitted by the Government servant, the Disciplinary Authority may itself inquire into such articles of charge or may, if

it considers it necessary to do so, appoint, under subrule (2), an Inquiry Authority for the purpose.

(c) The Disciplinary Authority may nominate any person hereinafter referred to as the Presenting Officer to present the case in support of the Charge, before itself if it is to inquire into the charges or before the Inquiry Authority. *[The Government servant may present his case with the assistance of any other Government approved by the Inquiry Authority, but may not engage a legal practitioner for the purpose unless the Disciplinary Authority having regard to the circumstances of the case so permits]. * [The portion[]Substituted vide GN/GAD/No. GS/77-97/CDR/1277/1478-G, dated 01-07- 1977] +Note :The Government servant may also take the assistance of a retired Government servant to present the case on his behalf subject to such conditions as may be determined in general or special orders issued by the Government from time to time. + [Inserted vide GN/GAD/No. GS/86/17/CDR/1084/565/Inq. Cell, dated 16-04-1986.]

(6) The Disciplinary Authority shall, where it is not the Inquiry Authority, forward to the Inquiry Authority- (i) a copy of the articles of charges and the statement of imputations of misconduct or misbehavior;

(ii) a copy of the written statement of defence, if any, submitted by the Government servant;

(iii) a copy of the statement of witnesses, if any referred to in sub-rule (3);

(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Government servant; and

(v) a copy of the order appointing the presenting Officer.

(7) The Government servant shall appear in person before the Inquiry Authority on such day and at such time within ten working days from the date of receipt by him of the articles of charges and the statement of the imputations of misconduct or misbehavior, as the Inquiry Authority may, by a notice in writing specify in this behalf, or within such further time not exceeding ten days, as the Inquiry Authority may allow.

(8) If the Government servant who has not admitted any of the articles of charge in his written statement of defence, appears before the Inquiry Authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the Inquiry Authority shall record the plea, sign the record and obtain the signature of the Government servant thereon.

(9) The Inquiry Authority shall return a finding of guilt in respect of those articles of charges to which the Government servant pleads guilty.

(10) The Inquiry Authority shall, if the Government servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to

produce the evidence by which he proposes to prove the articles of charges, and shall adjourn the case to later date not exceeding thirty days, after recording an order that the Government servant may for the purpose of preparing his defence-

(i) inspect within five days of the order or within such further time not exceeding five days as the Inquiring Authority may allow, the documents specified in the list referred to in sub-rule (3);

(ii) submit a list of witness to be examined on his behalf;

Note : If the Government servant applies orally or in writing for the supply of copies of the statement of witnesses mentioned in the list referred to in sub-rule (3), the Inquiry Authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the Disciplinary Authority.

(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the Inquiry Authority may allow, for the discovery or production of any documents which are in the possession of Government, but not mentioned in the list referred to in sub-rule

(3). Note : The Government servant shall indicate the relevance of the documents required by him to be discovered or produced by the Government."

7.1 Sub-rule (1) of Rule 9 would indicate that no order imposing any of the penalties specified in items (4) to (8) of rule 6 shall be passed except after an inquiry, held as far as may be, in the manner provided in this rule and rule 10 or in the manner provided by the Public Servants (Inquiry) Act. Sub-rule 3 provides that when it is proposed to hold an inquiry the disciplinary authority shall draw up or cause to be drawn up a substance of imputations of misconduct or misbehaviour in accordance with sub-rule 3. Sub-rules 7 and 8 on the basis of the charge-sheet so drawn and on an inquiry officer appointed, ask the person to appear in person before the inquiry authority. Sub-rule 8 would indicate that if the government servant has not admitted any article of charge in his written statement, he would be asked to appear before the inquiry authority and such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty then an according procedure be so recorded and the inquiry officer may return a finding of guilt on the basis of a departmental proceeding.

7.2 Reading of the aforesaid procedure would indicate that in the event an employer intends to hold an employee guilty of misconduct like the one of insubordination that the petitioner is sought to be branded with, in accordance with Rule 9, detailed procedure of issuing a charge-sheet, calling for his explanation, a departmental proceeding where he is asked whether he pleads guilty, an inquiry report and then the procedure as envisaged under Rule 9 needs to be undertaken.

8. On the perusal of facts what is evident is that a show-cause was issued to the petitioner, a response was sought and a rojkam was recorded that a penalty be

imposed. The stand of the Council that no inquiry was necessary as the petitioner had admitted his guilt is a misconstruction of facts. Reading the rojkam would indicate that the Council was of the opinion that for the misconduct of the petitioner, the Council could consider imposing a penalty of stoppage of one increment or that of dismissal and such a procedure be undertaken after issuing notice. Obviously, therefore, in the mind of the Council was of conducting a departmental proceeding. It was at this stage that the petitioner expecting the council to act reasonably apologized. This apology could not be taken as an admission and the procedure of inquiry be dispensed with. What was expected of the authorities was to follow the procedure under Rule 9, issue a charge-sheet with the copy of the documents and the witnesses that the department sought to examine, invite a representation on the charge-sheet, offer witnesses and documents for examination and cross-examination. The documents that the institution wanted to rely on were to be proved through the procedure envisaged under the rules and then a proper inquiry report ought to have been formulated and merely because of an admission which was only an apology and not an admission of guilt could the petitioner's services be dispensed with.

9. As far as reliance placed on the decision in the case of Sardar Patel School (supra), facts would indicate that a teacher was appointed as a part-time teacher appointed in a school run by the Gram Panchayat. The allegation against the petitioner was that one Kumari Bharatiben was serving as a Teacher-cum-Clerk in the primary section. She gave an application to the Managing Trustee of the school complaining about the vulgar conduct of the respondent therein – Mr. Chunibhai Nathubhai Raval. An averment was made in the petition that the respondent had admitted his guilt by writing a letter dated 16. 01.1980 and had confessed that he had committed a mistake and tendered his apology. He had stated that considering his financial position he might be pardoned and therefore let off. Rather than condoning his misconduct, a show-cause notice was issued to the petitioner, a reply was then invited. He denied that he had made an apology and it was so made only under duress. It was in these circumstances, that the submission of the school, relying on a judgement of the Apex Court that if the delinquent admits his guilt then it is not necessary to hold an inquiry was pressed into service.

9.1 What is available from the facts is that the Tribunal had come to the conclusion that there was violation of principles of natural justice. Facts would indicate that an opportunity to examine Bharatiben – the lady against whom allegations were made was not examined at the time of regular inquiry as she was not available. The application that was brought on record which alleged vulgar behaviour was exhibited by examining the principal of the school and the delinquent was allowed to cross examine the principal. Nothing came out from the cross-examination of the principal. It was in this context that the question that remained before the court was that whether the denial of cross-examination was in violation of principles of natural justice. Therefore, the judgement in the case of Sardar Patel School (supra) would not be applicable to the facts of the

case.

10. As far as the case of Channabasappa Basappa Happali (supra) is concerned, there to, the police officer had remained absent and there the plea of guilty was taken to be one on admitted facts and despite the fact that the Counsel for the delinquent had argued that he had admitted the facts not the guilt, the court held that there was no distinction between the admission of facts and admission of guilt. It was a case where a charge of unauthorized absence was levelled against the delinquent. To the question that 'have you understood the charges and do you accept the charges', did the delinquent therein respond by accepting the fact that he was on unauthorized leave. The facts therefore would indicate that the procedure envisaged under the Discipline and Appeal Rules was initially followed inasmuch as he was served the charge-sheet and then examined before the inquiry officer.

11. All these facts would therefore indicate that when in context of challenge in this petition is considered, the order of removal has been passed based on a show-cause notice, appearance of the petitioner before the inquiry committee, in context of the insubordination a rojkam was drawn where the petitioner apologized and that having been taken as admission, the order impugned is passed.

12. Of course, Mr. Mehta, learned Senior Advocate for the petitioner has placed on record a report of the Police Inspector dated 22.04.2021 that even after looking into allegation pursuant to the letter dated 12.10.2018 nothing fruitful has been found, that would not make any difference.

13. Admittedly, the petitioner was an employee of State Pharmacy Council to whom the Discipline and Appeal Rules applied. If the charge against the petitioner was that of insubordination, a regular charge-sheet drawing a statement of imputations of misconduct calling for his explanation based on documents and witnesses a list of which was to be given with the charge-sheet in accordance with the procedure envisaged under Rule 9 ought to have been followed. The letter dated 02.08.2019 and a subsequent letter dated 23.08.2019 was clearly a stand of the petitioner to save his skin inasmuch as rather than face dismissal he expected the Council to discharge him of the omission of conduct rather than take any penal action. That cannot be taken as an admission in the context to dispense with a full fledged departmental proceedings under the Rules.

14. Shortly therefore on the ground that the order of removal has been passed in contravention of the Rules, the order of removal dated 21.08.2019 is quashed and set aside. The respondents are directed to reinstate the petitioner in service with all consequential benefits. Liberty is reserved with the respondent Council to pass a fresh order, if any, after following the procedure in accordance with law as prescribed under the Rules. Petition is allowed to the aforesaid extent. Rule is made absolute. Connected Civil Application stands disposed of accordingly. Direct

service is permitted.

(BIREN VAISHNAV, J)

After the above order was pronounced, learned advocate for the respondents requests for stay of the order which request is rejected.