
(2000) 12 BOM CK 0049
In the Bombay High Court
Case No : Writ Petition No. 5022 of 2000

Sureshkumar Jethalia

APPELLANT

Vs

State of Maharashtra and others

RESPONDENT

Date of Decision : 16-12-2000

Acts Referred:

Citation : (2000) 12 BOM CK 0049

Hon'ble Judges : N.V. Dabholkar, J;B.H. Marlapalle, J

Bench : Division Bench

Advocate : P.M. Shah, for the Appellant; E.P. Sawant, Government Pleader for Respondents Nos. 1 to 3 and V.D. Salunke for Respondents Nos. 4 to 6, for the Respondent

Final Decision : Dismissed

Judgement

B.H. Marlapalle, J.—Heard Shri Pravin Shah, Learned Counsel for the petitioner. Shri Sawant learned Government Pleader for respondents Nos. 1 to 3 and Shri Salunke. Learned Counsel for respondents Nos. 4 to 6.

2. Rule. Respondents waive service. Rule made returnable forthwith, by consent of the parties.

3. The Petitioner has brought in question the order dated 29th November. 2000 passed u/s 55-A read with section 55-B(b) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act. 1965 (Maharashtra Municipalities Act. for short), passed by Respondent No. 3 and communicated to the Petitioner vide covering letter dated 5th of December, 2000. By the said order, the petitioner has been removed from the post of President of Municipal Council, Partur, District Jalna and he has been further disqualified for a period of six years for being elected as a councilor from the date of the order. In our order dated 13th of December, 2000 we had also noted that pursuant to the impugned order the Collector. Jalna had passed an order directing the Tahsildar Jalna to take over the charge of the post of President of Municipal Council. Partur as per

the provisions of section 57(2) "of the Maharashtra Municipalities Act" and we had granted status quo, as on 7th December, 2000. to be maintained in respect of post of President. Prior to the impugned order being passed, show cause notice dated 9th June, 2000 was issued to the petitioner which he replied on 12th of July, 2000, which was received at Mantralaya. Mumbai on 14th of July, 2000.

4. The Partur Municipal Council has in all 17 wards and during the earlier tenure from 1990-1995 the Petitioner held the post of President of the Municipal Council. Fresh elections were announced and were held on 1st December. 1996. The petitioner had formed an Aghadi (front/panel) under his leadership and the said Aghadi contested all the 17 seats of the Municipal Council. The Aghadi was successful with a thumping, majority of 14 seats which included the petitioner as well as his wife Smt. Vimaladevi Jethalia. Shri Shamsingh Thakur came to be elected as the President on 17th December, 1996 and the said post was reserved at that time. It appears that subsequently Shri Thakur proceeded on leave and Smt. Vimaladevi Jethalia. the then Vice-President took over the reins of Presidentship from 2nd July, 1997 to 5th November, 1997. The fresh elections to the post of President were held on 17th December. 1997 and the petitioner was elected for the said post. It appears that the present respondent Nos. 4 to 6, along with other councilors, had submitted a written representation to the Minister of State for Urban Development on 1st September, 1999, 19th November, 1999 and 1st December, 1999. Respondent Nos. 4 to 6 were the councilors in the earlier tenure and Respondent No. 6 is councilor even in the present tenure. These complaints ultimately culminated in the show cause, notice dated 9th June, 2000 against the Petitioner. There were in all three charges levelled against the petitioner, and they are in brief, as under:

(i) M/s Shri Gajanan Cotton Pressing Factory, belonging to the family of the petitioner, was favored by charging less betterment charges, development cess and octroi. It is clarified that by way of betterment charges and development cess the said factory was liable to pay an amount of Rs. 1.09,675/- and as against that only an amount of Rs. 10,806/- was charged and collected, thereby causing a loss of Rs. 98,869/- to the Municipal Council and with interest at the rate of 18% per annum amounting to Rs. 35,592/- the total loss to the municipal council on that count came to Rs. 1,34,461/-. This amounted to the breach of the provisions of section 58(1)(b) of the Maharashtra Municipalities Act.

(ii) M/s Shri Gajanan Cotton Pressing Factory had imported a machinery worth Rs. 25.99 Lakhs and it was liable to pay octroi at the rate of 3% which amount would have come to Rs. 77,970/-. However, resolution No. 30 came to be passed on 30th December, 1997 by the Standing Committee which was chaired by the petitioner and it was decided to charge octroi on the said machinery at the rate of 1% instead of 3%. As per the said resolution the factory paid an amount of Rs. 23,490/-, though, as per the resolution, the said amount ought to have come to Rs. 25,900/-. On this count also it was alleged that the petitioner acted in

breach of provisions of section 58(1)(b) of the Maharashtra Municipalities Act.

(iii) On 24th May, 1993 resolution No. 3, regarding integral development of small and medium towns, came to be passed illegally inasmuch as the said subject was never discussed before the general body.

5. The petitioner was, thus, charged for misconduct and neglect while performing his duties as the President within the meaning of section 55 A read with section 55B(b) of the Maharashtra Municipalities Act. On receipt of the show cause notice the petitioner made an application for documents and on 4th July, 2000 all these documents were made available to him (about 105 pages). On 7th July, 2000 the petitioner addressed a letter to the Joint Secretary in the Ministry of Urban Development, Mantralaya acknowledging the receipt of the show cause notice on 27th June, 2000 as well as the documents asked for on 4th July, 2000 and further stating therein that the reply to the show cause notice would be submitted in time. Accordingly, a detailed reply to each of the charges was submitted and transmitted on 12th July, 2000. In the said reply he stoutly denied the charges stating therein that the resolutions of the Municipal council were a collective responsibility of the council, Shri Gajanan Cotton Pressing Factory was run by Shri Ashishkumar Jethalia who was not a member of the undivided Hindu family of the petitioner, petitioner had no financial interest in the said factory and the petitioner was not personally liable for any of the misfeasance, malfeasance or nonfeasance of the municipal council. While denying these charges, the petitioner also prayed for a personal hearing. The first hearing was granted to the petitioner on 2nd August, 2000 before the respondent No. 3 on which date the petitioner's Advocate applied for adjournment which was granted. The next hearing took place on 17th August, 2000 and the petitioner was himself present along with his Advocate Shri Deshpande, Ex. -M.L.A. Shri Quadir, Shri Deshmukh and some other councilors, including respondents Nos. 4 to 6. The petitioner's case was presented by his Advocate Shri Deshpande. The hearing was completed on 17th August, 2000. However, the impugned order came to be passed on 29th November, 2000 and has been communicated to the petitioner, vide forwarding letter dated 5th December, 2000.

6. Shri Shah, for Learned Counsel for the petitioner, submitted that the impugned order is illegal and deserves to be set aside by this Court on the following grounds :

- (a) It is passed in utter disregard to the principles of natural justice;
- (b) The petitioner cannot be held responsible for the acts of the municipal council; and the decisions of the municipal council are a collective responsibility of the said elected body;
- (c) The impugned order records findings but lacks totally in the reasoning in support of these findings.
- (d) Shri Gajanan Cotton Pressing Factory does not belong to the HUF of the

Petitioner and the concessions given to the same factory cannot be attributed as an act of negligence or misconduct on the part of the petitioner specially when such concessions are given to other industrial units with bona fide purposes viz. the development of industrial area around Partur town.

(e) The municipal administration is responsible for charging/levying the bills and the collection thereof. The President cannot be held responsible if a particular establishment has been charged the development cess or betterment charges at a much lower rate, as alleged, and in any case the petitioner cannot be expected to be responsible for the day to day administration of the municipal council which is the responsibility of the Chief Officer as appointed by the State Government.

7. In support of these contentions Shri Shah has relied upon the judgment of this Court in the case of *The Municipal Council, Malkapur and Another Vs. The State of Maharashtra and Another*, , a judgment of the Allahabad High Court in the case of *Surinder Prakash Goel Vs. The State of U.P. and others*, and judgment of the Supreme Court in the case of *S.L. Kapoor Vs. Jagmohan and Others*, . He has also referred to yet another Division Bench judgment of this Court in the case of *Baburao Vishwanath Mathpati and etc. Vs. State of Maharashtra and others etc.*, on the point of the definition of the term "misconduct" and "neglect".

Shri Sawant, the learned Government Pleader, in reply, has stated that the action taken against the petitioner was proper, reasonable and most warranted in public interest and the said action has been taken by following the due procedure as set out under the Act. He has denied the allegations that the principles of natural justice have been violated while passing the impugned order and emphasised that the petitioner was given due opportunity of hearing and he has been, in fact, represented by an Advocate before the respondent No. 3. Shri Sawant defended the impugned order and urged before us to reject the petition.

Shri Salunke, the Learned Counsel for the respondents Nos. 4 to 6 has insisted that Shri Gajanan Cotton Pressing Factory belongs to the family members of the petitioner and from the invitation card that was extended for its inaugural function on 6th January, 1998 it is more than clear that the petitioner has interest in the said factory. Our attention has been invited to the invitation card of the inaugural function of the said establishment and on the envelope of the said invitation card the petitioner's name has been printed as the sender. Shri Salunke also submitted that the respondents Nos. 4 to 6 have been persistently following with the State Government for the removal of the petitioner for his illegal and high-handed acts and finally the Government issued the show cause notice dated 9th June, 2000 based on the complaints submitted by these respondents. It is also submitted by Shri Salunke that all the charges levelled against the petitioner have been duly established and in respect of charge No. 3 even if the reasoning is not satisfactory or the reasoning is absent, that itself would not be a reason to interfere with the impugned order passed by the respondent No. 3, more so when the respondent No. 3 is not a legally trained person and the petitioner was represented by a practising advocate during the

proceedings which culminated in the impugned order.

8. It would be necessary for us to reproduce the provisions of sections 55A and 55B and 58(1)(b) of the Maharashtra Municipalities Act, as under :

55A. Without prejudice to the provisions of sections 51A and 55, a President or a Vice-President may be removed from office by the State Government for misconduct in the discharge of his duties, or for neglect of, or incapacity to perform, his duties or for being guilty of any disgraceful conduct, and the President or Vice-President so removed shall not be eligible for re-election or re-appointment as President or Vice-President. as the case may be, during the remainder of the term of office of the Councilors :

Provided that, no such President or Vice-President shall be removed from office unless he has been given a reasonable opportunity to furnish an explanation.

55B. Disqualification for continuing as Councilor of becoming Councilor on removal as President or Vice-President. -

Notwithstanding anything contained in section 55A, if a Councilor or a person is found to be guilty of misconduct in the discharge of his official duties or being guilty of any disgraceful conduct while holding or while he was holding the office of the President or Vice-President. as the case may be the State Government may. -

(a) disqualify such Councilor to continue as a councilor for the remainder of his term of office as a Councilor and also for being elected as a Councilor, till the period of six years has elapsed from the order of such disqualification;

(b) disqualify such person for being elected as a Councilor till the period of six years has elapsed from the order of such disqualification.

58. (1) Subject to the provisions of this Act and of any rules and bye-laws framed thereunder, the President of a Council shall -

(a) preside, unless prevented by reasonable cause, at all meetings of the Council and regulate the conduct of business at such meetings;

(b) watch over the financial and executive administration of the Council:

(bb) appoint a Vice-President:

(c) perform such executive functions or exercise such powers as are conferred upon him by or under this Act or any other law for the time being in force:

(d) exercise supervision and control over the acts and proceedings of chief officer of the Council in matters of executive administration and in matters concerning the accounts and records of the Council and

(e) furnish to the State Government or The Director or the Collector or any other Government Officer authorised by the State Government from time to time, such

reports, returns or records as may be prescribed by rules or as may be called, for at any time by the State Government, the Director, the Collector or such officer.

9. A perusal of these provisions shows that the Government has powers to remove the President and Vice-President on account of (a) misconduct in the discharge of his duties; (b) for neglect of his duties; (c) incapacity to perform his duties and (d) for being guilty of any disgraceful conduct. It is further provided that on removal, the President or Vice-President. shall not be eligible for re-election or reappointment as President or Vice-President as the case may be during the remainder of the term of office of the councilors. The proviso makes it mandatory that before such an action of removal is resorted to the President or Vice-President. as the case may be. shall be given a reasonable opportunity to furnish the explanation. Section 55B was incorporated in the Act by Maharashtra Amendment No. 11 of 1996 and it states that irrespective of the provisions of section 55A, if a councilor or a person is found to be guilty of misconduct in the discharge of his official duties or being guilty of any disgraceful conduct while holding the office of President or Vice-President. as the case may be, the State Government, may disqualify such person for being elected as a councilor till the period of six years has elapsed from the order of such disqualification. In the case of Bahurao (supra), a Division Bench of this Court held that the action contemplated u/s 55A or 55B of the Act entails civil consequences and. therefore, an opportunity of hearing before an order of removal is passed, is mandate on requirement. On the interpretations of the word "misconduct" and "neglect" this Court observed :

This provision sufficiently entails civil consequences and attaches stigma to the President and therefore to remove a President on these grounds the order must be founded on strong grounds. From this view point the word "neglect" as used in the section must be understood from the gravity of the charges. There should be flagrant disregard of duties so as to call for removal of the President u/s 55-A.

In the case of Municipal Council, Malkapur (supra) this Court was dealing with the subject of removal of the municipal council for persistent defaults within the meaning of section 313 of the Maharashtra Municipalities Act and it observed that mere defaults in performance of the duties or in complying with the lawful directions and orders issued by the authorities by itself would not be a reason for the removal of the council. If the words contemplated persistent default, such default should not be a casual or occasional and it must be a repetition of defaults. We are not. in the instant case, concerned with the issue of removal of the municipal council and the provisions of sections 55 A and 55B read with section 58(i)(b) are under our consideration and not the provisions of section 313 of the Maharashtra Municipalities Act. There can be no dispute that the principles of natural justice as enunciated by the Supreme Court in S. L, Kapoor's case (supra) govern the field when it comes to removal of a civil body elected by the people viz. the municipal council or for that matter even the President of such a Municipal Council. In the case of Surinder (supra) a Division

Bench of the Allahabad High Court was called upon to examine the legality of the action of removal of President u/s 48(2)(vi) of the U. P. Municipalities Act and in that context it is held:

No doubt section 48(2)(vi) enables the State Government to remove a President if he is guilty of misconduct in the discharge of his duties. However, this provision cannot be construed to mean that the President can be removed for any kind of misconduct in the discharge of his duties. We are of the opinion that section 48(2)(vi) should be interpreted to mean that it is only for some flagrant and serious misconduct that the President can be removed, and not that he can be ousted for some slight or technical misconduct. The latter interpretation would undermine democracy and make elected persons easily removable by the executive. Such an interpretation is, to our mind, unacceptable.

10. We have to consider the petition at hand as per the provisions of sections 55A and 55B of the Maharashtra Municipalities Act which provisions are obviously different from the provisions of section 48(2)(vi) of the U. P. Municipalities Act. We are also mindful of the well recognised position in law that the President of a municipal council is an elected functionary, and in a democratic setup any provision for removal of such a functionary should be strictly construed and an elected person in a democracy should not be easily removed by the order of an executive authority. The removal could be permissible only in clear cases of misconduct and neglect.

11. Shri Sawant, the learned Government Pleader, as per our directions, has made available to us the original file and on perusal of the same we have no hesitation to state that the petitioner was given due opportunity of hearing, he was heard on 17th of August, 2000 through his Advocate, the documents he sought for have been provided to him before he filed his reply to the show cause notice and there is no case of infraction of any statutory provision or the principles of natural justice in the instant case. Shri Shah, Learned Counsel for the petitioner, on referring to the affidavit, in reply filed on behalf of respondents Nos. 1 to 3. stated that the report made by the Collector on 28th of March, 2000 was considered by the respondent No. 3 while passing the impugned order but a copy thereof was not made available to the petitioner. We are not impressed by these objections specially when the petitioner was represented by an Advocate before the respondent No. 3 and there is nothing on record to show that such a request was made during the course of hearing and a copy of the document was asked for. In the absence of any such document it must be reasonably inferred that the document, as well as its contents, were known to the petitioner during the course of hearing before the respondent No. 3.

12. We now proceed to consider the findings in respect of the three charges on the basis of which the impugned order has been passed. We will first deal with charge No. 3 regarding the allegation of resolution dated 24th of May, 1993 having been passed illegally. As is evident, the resolution was passed about seven years before and during the earlier tenure of the petitioner as the

President of the municipal council and it would be too late for the respondent No. 3 to proceed on such stale charges. Even otherwise, in support of this charge there is only a finding in the impugned order, without any reasoning in support thereof as is evident in the last but one paragraph of the said order, which we quote below :

We, therefore, record that there is no case made out to proceed against the petitioner on account of charge No. 3.

13. Coming to charge No. 1, it is observed in the impugned order that the total built-up area of Shri Gajanan Cotton Pressing Factory was not considered which area comes to about 19062 sq. mtrs. and if this total area is taken into consideration, the total amount payable by way of betterment charge and development cess comes to Rs. 3,48,097/- to be paid by the said factory to the municipal council every year. As against this, the factory has been charged a bill of Rs. 10,806/- thereby causing a loss to the municipal council of Rs. 3,37,291/-. The interest on the same amount at the rate of 18"% per annum for a period of 2 1/2 years has been worked out at Rs. 1,51,781/-. Thus, the total loss to the municipal council has been worked out at Rs. 4,89,078/-. In the findings it is also recorded that the municipal council officers and councilors have connived and caused loss to the municipal council by granting favors to the said factory. Though findings have been recorded against Smt. Vimaladevi Jethalia, who was acting as the President for sometime, these observations do not warrant any consideration by us. At the same time, we note that these observations should not have been made in the absence of Mrs. Jethalia or without hearing her. Be that as it may, the fact remains that the charging of bills or issuing of the bills is primarily the responsibility of the municipal council. The provisions of Rule 14 of the Maharashtra Municipal Council Account Code are clear in this regard. Though it is admitted that Shri Ashishkumar Jethalia is the nephew of the petitioner (real brother's son) there is nothing on record to show that it was at the petitioners instance that the taxes have been undercharged to the said establishment. When the findings point out a finger against the municipal council administration it would be necessary for the municipal council to probe into the same and proceed against the officers concerned. Shri Sawant, learned Government Pleader invited our attention to the provisions of section 58 of the Maharashtra Municipalities Act and submitted that it is the primary responsibility of the President to supervise and control the working of the municipal council, including that of the Chief Officer and. therefore the petitioner must accept the responsibility in respect of under billing the establishment of Shri Ashishkumar Jethalia. When an elected representative is being proceeded against by way of disciplinary action under the provisions of the Maharashtra Municipalities Act. the charges against him must be clear and proved beyond reasonable doubts and even otherwise failure or laxity on account of supervision cannot be a reason justifying removal from the post of President of the Municipal Council and one such human aberration certainly would not even remotely justify the action of removal. We are therefore, of the considered view that even on account of the findings recorded

on the first charge the action of removal is not justified as the said charge is not duly established against the petitioner. Pointing a finger of suspicion cannot be equated with the proof on a charge and the municipal administration must investigate the issue in further details and proceed against the officers who are responsible for under billing the establishment of Shri Ashishkumar Jethalia, including the allegations made by respondent Nos. 4 to 6 that even the basic construction of the said factory is illegal.

14. We now dwell upon the findings on charge No. 2. Section 105 of the Maharashtra Municipalities Act empowers the municipality to impose compulsory taxes such as octroi etc. Section 112 lays down the procedure for varying the rate of taxes within the prescribed limits and it reads as under :

112. (1) Notwithstanding any rule, bye-law or resolution specifying the amount or rate at which a tax is leviable, a Council may, by a resolution passed at a special meeting, decide to increase or reduce the amount or rate at which such tax is leviable and to that extent the bye-laws already sanctioned by the State Government shall be deemed to have been suitably amended with effect from the date specified in the notice, referred to under sub-section (2) ; Provided that -

(a) such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under the rules;

(2) When a Council has by a resolution decided to increase or reduce the amount or rate at which any tax is leviable, the Council shall publish in the municipal area the resolution together with notice specifying a date, which shall not be less than thirty days from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice. When the rate at which any tax is leviable, is increased by publication of the resolution under this section it shall not be necessary to give any separate notice thereof to the owners or occupiers of the properties affected thereby.

Rule 5 of the Maharashtra Municipalities (Octroi) Rules, 1968 (for short, the Octroi Rules), as framed under the provisions of section 321(2) read with section 105(1) of the Act deals with the procedure for imposing octroi and sub-rules (3) and (4) are material for our consideration in the case at hand and, therefore, they are reproduced hereinbelow :

5. Procedure preliminary to imposing octroi. -

(1)

(2)

(3) Subject to the provisions of section 112. a Council may. by resolution passed at a special meeting, from time to time, decide to increase or reduce the rate of

octroi on any goods within the permissible limits. When the Council decides to increase or reduce the rate accordingly, it shall follow the procedure laid down in sub-rule (2) and the rate so increased or reduced shall be applicable from the date specified by the Council for that purpose.

(4) A Council may likewise, by resolution passed at special meeting, from time to time, decide to exempt all or any of the goods specified in Part II of Schedule II. from the levy of octroi or withdraw any exemption so granted. When the Council decides to exempt such goods from the levy of octroi or to withdraw any such exemption, it shall follow the procedure laid down in sub-rule (2), and such exemption shall come into force or stand withdrawn from the date specified by the Council for that purpose.

15. In case the municipal council desires to vary the rate of octroi already fixed, it is bound to follow the procedure set out in section 12 of the Maharashtra Municipalities Act read with Rule 5(3) and (4) of the Octroi Rules. It is also clear that the power of varying the taxes is vested with the general body and not the standing committee. Resolution No. 30 passed on 30th December, 1997 i.e. one week prior to the inauguration of Shri Gajanan Cotton Pressing Factory was passed in the standing committee presided over by the Petitioner and none else. The resolution is not a general policy decision granting concession to all industrial units and it is a specific resolution for Shri Gajanan Cotton Pressing Factory alone. The petitioner was President of the municipal council in the earlier tenure from 1990-1995 and, therefore, he is expected to be familiar with the powers of the general body as well as the standing committee. There is nothing on record to show that even the standing committee resolution was placed before the general body for ratification at any time. The resolution was acted upon and the benefits have been given to the industrial establishment. The reasonable inference, in this regard, which we draw by taking into consideration the record before us is that this was an action of the petitioner to favour the industrial unit purportedly belonging to his nephew. The resolution also does not say that it was applicable to a class or category of goods.

16. The moot question before us, therefore, is whether this act on the part of the petitioner would come within the ambit of misconduct or neglect in performance of his duties as a President. The Concise Oxford dictionary defines the term "misconduct" as improper unprofessional behaviour, bad management or mismanagement; whereas the term "neglect" means failure to care for or to do, overlook or forget the need to do a thing, not to pay attention to lack of caring etc. The Nagpur High Court (as it then was) had an occasion to deal with the meaning of the term "misconduct" in the case of "Shaikh Mohammad vs. G. G. In Council", AIR 1954 Nag. 337 " and it held that the term "misconduct" literally means wrong or improper conduct i.e. conduct in violation of a definite rule of action and it ordinarily means failure to do what is required of a person to be done. An omission to do what is required of a person to do may therefore constitute misconduct even though the person has not acted willfully or

maliciously. Even if we go by the earlier decision of this Court in the case of Baburao (supra) the failure to do a thing by itself may not be a misconduct but if the failure is deliberate or motivated it would amount to a misconduct. In the case of the petitioner, the finding on charge No. 2, as is reflected in the impugned order, reads thus :

Though the imputations against the other councilors viz. Shri Bapurao Adhav, Dadarao Padewar and Sau. Manglabai Panwale, as made in the said reasoning, are not required to be considered by us for the present purpose, the reasoning given, while holding the petitioner guilty of charge No. 2, is well worded and it does not suffer from any infirmities, if regard be had to the provisions of section 112 of the Maharashtra Municipalities Act read with Rule 5 of the Octroi Rules. The resolution passed is a premeditated design of the Petitioner to grant financial gains to the establishment of his nephew and that too by causing loss to the council. This is certainly an act of misconduct by the petitioner. We, therefore, hold that charge No. 2 has been duly proved against the petitioner.

17-18. We agree with Mr. Shah, the Learned Counsel for the Petitioner, that when it comes to the removal of a municipal council there must be a case of persistent defaults but the same principle does not apply to the President of the council. What matters is the seriousness of the act of misconduct which is proved against the incumbent in office. Such defaults are not necessarily required to be persistent or repeated or committed on more than one occasions. For the persons who hold the public office the normal benchmark of his character and behaviour in the common man's language is "Caesar's wife must be above suspicion". We, therefore, agree with the contentions of the Learned Counsel for the respondents that even if one charge out of the three charges is proved against the petitioner, the impugned order does not call for any interference and it is not necessary that all the three charges must be proved against him. The ratio in the case of Surinder Prakash (supra) as relied upon by Shri Shah, the Learned Counsel for the petitioner, is not applicable in the facts of this case as well as the provisions of sections 55A and 55B of the Maharashtra Municipalities Act. The seriousness of the charge proved against the petitioner does not permit us to allow him to continue in the office of President of Partur Municipal Council and he must vacate the same office forthwith.

19. We, therefore, do not find any merit in the challenge raised against the impugned order and we hold that the findings on charge No. 2 are sufficient to confirm the order passed by the Respondent No. 3 on 29th November, 2000 removing the petitioner from the office of the President, Municipal Council, Partur by invoking the powers under sections 55A read with 55B and 58(1)(b) of the Maharashtra Municipalities Act and the findings on account of the same charge also justify the punishment u/s 55B of the Act. The petition is therefore, dismissed. Interim order passed by us on 13th December, 2000 stands vacated.

20. Rule discharged with no order as to Costs.

21. Shri Shah, the Learned Counsel for the petitioner, at this stage, submitted an oral application for stay of our order for a period of four weeks. We have considered the request and we are satisfied that it does not deserve to be granted. The application is, therefore, rejected.