

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 728 OF 2011

1. The State of Maharashtra.
2. The Director of Social Forestry,
Maharashtra State, Pune.
3. The Deputy Director of Social Forestry,
Aurangabad Region, Aurangabad.
4. The Plantation Officer,
Social Forestry Range, Jalna.

Petitioners.
(Orig. respondents)

VERSUS

Baban Namdeo Rajgire,
age 43 yrs, Occ. Service,
r/o At Post Georai Bazar,
Tq. Badnapur, Dist. Jalna.

Respondent.
(Orig. Applicant.)

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WRIT PETITION NO. 729 OF 2011

1. The State of Maharashtra.
2. The Director of Social Forestry,
Maharashtra State, Pune.
3. The Deputy Director of Social Forestry,
Aurangabad Region, Aurangabad.
4. The Plantation Officer,
Social Forestry Range, Jalna.

Petitioners.
(Orig. respondents)

VERSUS

Shankar Chokhaji Horsil
age 35 yrs, Occ. Service,
R/o Bazar Georai,
Tq. Badnapur, Dist. Jalna.

Respondent.
(Orig. Applicant.)

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AND

WRIT PETITION NO. 733 OF 2011

1. The State of Maharashtra.
2. The Director of Social Forestry,
Maharashtra State, Pune.
3. The Deputy Director of Social Forestry,
Aurangabad Region, Aurangabad.
4. The Plantation Officer,
Social Forestry Range, Jalna.

Petitioners.
(Orig. respondents)

VERSUS

Vishnu Ramrao Mahadik
age 32 yrs, Occ. Service,
R/o Mhatrewadi, Post Shelgaon,
Tq. Badnapur, Dist. Jalna.

Respondent.
(Orig. Applicant.)

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Smt. V.A. Shinde AGP for Petitioner.
Mr. Anandsing Bayas Advocate for Respondent.
(In all Writ Petitions)

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: July 09, 2015
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ORAL JUDGMENT :- (Per Gangapurwala, J.)

1. In all these writ petitions, the State of Maharashtra assails the order passed by the Maharashtra Administrative Tribunal, Aurangabad, whereby, the Original Applications filed by the present respondents came to be allowed. The Tribunal directed the present petitioner to confer all benefits flowing from Government Resolution dated 19.10.1996 to the present respondents.

2. Learned AGP appearing for the petitioner submits that, in fact, the respondents herein are not entitled for the benefit of the Government Resolution dated 19.10.1996. The respondents herein had not completed 240 days each year continuously for five years prior to the cut of date i.e. 1.11.1994 prescribed in Government Resolution dated 19.10.1996 in service with Social Forestry Department. For major period, the respondents herein had worked under E.G.S. Said period could not have been computed. Because of the erroneous calculations shown by the Officer of the Social Forestry Department, the Tribunal had arrived at erroneous conclusion. Learned AGP submits that, chart has been given along with additional reply to show that the respondents would not have not completed 240 days service in each year for previous five years in Social Forestry and that, erroneously period for which they had worked on E.G.S. has been computed and included in 240 days. As such, impugned judgment and order is liable to be quashed and set aside.

3. Mr. Bayas, learned counsel for Respondents submits that, in fact, present respondents have completed 240 days each year for five years prior to the Government Resolution dated 19.10.1996 and are entitled for the benefit of the said Government Resolution. According to the learned counsel, after perusing the record and considering the pleadings, the Tribunal has arrived at correct conclusion. Chart which is presented by the petitioner along with additional reply was not before the Tribunal nor any original

record was produced before this Court.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. The Tribunal has accorded benefit of Government Resolution dated 19.10.1996 to the present respondents. For according benefit of the Government Resolution dated 19.10.1996, it will have to be shown that present respondents are eligible pursuant to the said Government Resolution. Clause 1 of the said Government Resolution is relevant for consideration. It states that, for computing 240 days in each year for five years period, days of work in Social Forestry is to be considered and not the period during which the employee has worked under E.G.S. Statement, as given along with additional affidavit-in-reply, was not placed before the Tribunal. It is submitted that, even action is taken against the officer who had given wrong calculations before the Tribunal. Naturally, the Tribunal was guided by the Affidavit-in-reply filed before it.

6. Considering the fact that, the documents which are filed before this Court were not before the Tribunal for considering the same, it would be relevant to relegate the parties to the Tribunal as in writ jurisdiction, it would not be appropriate to enter into said question of facts.

7. In light of the above, the impugned order dated 08.06.2010 passed by the Tribunal is quashed and set aside. Parties are relegated before the Tribunal for deciding the Original Applications afresh. Parties shall appear before the Tribunal on 3rd of August, 2015.

8. Rule accordingly made partly absolute. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-