

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

WRIT PETITION NO. 2168 OF 2006

Suryabhan S/o Tukaram Pawar,
Age : 54 Years, Occu. : Service,
R/o Vivekanand Chowk,
Vivekanand Nagar, Nanded Road,
Latur, Dist. Latur. .. Petitioner

Versus

1. State Govt. of Maharashtra
Rural Development & Water
Conservation Department,
Mantralaya, Mumbai - 400032.
2. The Chief Executive Officer,
Zilla Parishad, Latur.
3. Shri Ashok Baburao Gaikwad,
Age : 50 Years, Occu. : Service,
as Junior Assistant,
Zilla Parishad, Latur.
4. Additional Commissioner,
Aurangabad. .. Respondents

Shri R. J. Godbole, Advocate for the Petitioner.

Smt. Y. M. Kshirsagar, A.G.P. for Respondent Nos. 1 and 4.

Shri Wagh, Advocate h/f Shri V. D. Hon, Senior Advocate for the
Respondent No. 2.

Shri V. D. Gunale, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 09TH APRIL, 2015.

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Mr. Godbole, the learned counsel for the petitioner submits that, the petitioner was promoted as an Office Superintendent vide order dated 24.01.2003. The respondent No. 3 challenged the promotion order dated 24.01.2003 in favour of the petitioner by filing an appeal before the Divisional Commissioner. The appeal is still subjudice. The learned counsel submits that, the respondent No. 3 also filed revision challenging his reversion. The same was dismissed. The respondent No. 3 filed revision before the State. It was allowed thereby petitioner was reverted from the post of office superintendent to that of senior assistant. The petitioner challenged said order before this Court. This Court in Writ Petition No. 2746 of 2005 vide order dated 06.09.2005 allowed the said writ petition by setting aside order of the State and remanded the revision back to the respondent No. 1 for decision on merits and directed the respondent No. 1 to restrict the said revision to the extent of reversion of the respondent No. 3.

2. After the matter was remanded back to the respondent No. 1, the respondent No. 1 passed an order confirming the order dated 10.12.2004 without any reason. According to the learned counsel, the respondent No. 1 could not have passed an order of reversion of the present petitioner in the said revision after the orders passed by this Court in earlier writ petition. The same

was beyond the jurisdiction of the respondent No. 1. The appeal challenging promotion of the petitioner is separate appeal subjudice before the authority.

3. Mr. Gunale, the learned counsel for the respondent No. 3 submits that, considering facts on record, the order has been rightly passed by the respondent No. 1. The documents on record are explicitly clear.

4. The petitioner has retired from service having attained age of superannuation as a section officer as contended by the petitioner. The order dated 10.12.2004 passed by the respondent No. 1 reverting the present petitioner was set aside by this Court vide order dated 06th September, 2005 in Writ Petition No. 2746 of 2005. This Court observed that, the respondent No. 1 could have decided only the question of dismissal of appeal filed by the respondent No. 3 in relation to his own reversion. The order of the respondent No. 3 taking into sweep, the promotion of the petitioner as Superintendent by an order dated 24.01.2003 was beyond the jurisdiction. In the light of the clear finding of this Court, the respondent No. 1 could not have again confirmed the earlier order dated 10.12.2004, which was specifically set aside by this Court. In fact, the approach of the respondent No. 1 amounts to sitting over the judgment delivered by this Court, which is not permissible. In fact, it tantamount to contempt of

the Court.

5. The impugned order dated 01.03.2006 is passed in an absolutely casual manner without application of mind and without taking pains to refer to facts and the submissions. Such an order is not sustainable.

6. In the light of the above, the impugned order is quashed and set aside to the extent of reverting the petitioner from the post of Superintendent to the post of Senior Assistant. Rule accordingly made absolute in above terms. No costs.

Sd/-

[A. I. S. CHEEMA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/April 15