

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

WRIT PETITION NO. 2367 OF 2014

Aleem Mirza Sajjad Baig

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri U. R. Awate, Advocate h/f Shri S. B. Talekar, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 and 2.

Shri Vivek V. Bhavthankar, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 13TH JANUARY, 2015.

PER COURT :

. Mr. Aute, the learned counsel for the petitioner submits that, the petitioner was initially appointed by respondents in the Works Department. Because of the conviction in the criminal case by the Sessions Court, the petitioner was suspended and subsequently terminated. In appeal this Court acquitted the petitioner, thereafter, the petitioner is reinstated. The learned counsel submits that, the petitioner is reinstated. The petitioner is required to be reinstated in the Works Department, however, the petitioner is given charge of Water Supply Department and also given charge of Works Department. Vide order dated

04.03.2014 the petitioner is sought to be relieved from the post of sectional engineer. The same is illegal. Even the name of the petitioner is appearing in the seniority list of persons in the works department.

2. The learned counsel further submits that, the petitioner had moved the Commissioner seeking relief that the period of suspension be treated as duty period. The same is dismissed without assigning any reasons.

3. The learned Assistant Government Pleader states that, the letter dated 15.10.2013 is merely a communication to the petitioner. The reasons are given by the Commissioner. As Exhibit K merely is a communication of the order, the said communication does not show reason, however, reasoned order is passed by the Commissioner.

4. Mr. Aute, the learned counsel for the petitioner submits that, the said reasons are never communicated to the petitioner.

5. As far as grievance of the petitioner that, the petitioner was initially appointed in Works Department and his name also appeared in the seniority list is concerned, the same is required to be considered by the authority. The petitioner has already moved representation on 07th August, 2012. The Chief Executive Officer is required to consider and decide the said representation after considering all the relevant aspects of the matter that is

initial appointment of the petitioner in works department as contended by petitioner, the seniority list and the subsequent order passed.

6. In the light of the above, we pass the following order.

7. The respondent/Zilla Parishad shall decide the representation dated 07.08.2012 (Exhibit - H) filed by the petitioner on its own merits and considering all the factual matrix of the matter. The petitioner is entitled to place before the Chief Executive Officer all the relevant documents in support of his representation dated 07.08.2012. The Chief Executive Officer shall decide the same expeditiously and preferably within a period of (3) three months from today.

8. As far as the relief claimed with regard to order of suspension to be treated as duty period is concerned, the petitioner may apply to the Commissioner for the copy of the reasons given while rejecting the case of the petitioner for treating the suspension period as duty period. On receipt of the said reasons, the petitioner is at liberty to assail the said order afresh. The writ petition accordingly is disposed of with aforesaid observations and directions, with no order as to costs.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]