

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

WRIT PETITION NO. 4029 OF 2013

Ramesh S/o Vasantrao Sarawade,
Age : 29 years, Occu. : Nil,
Residing at Pingle Galli,
Karanja Road, Beed. .. Petitioner

Versus

The Principal District and Sessions
Judge, Beed. .. Respondent

Shri Hemant Surve, Advocate for the Petitioner.
Shri N. B. Khandare, Advocate for the Respondent.

**CORAM : S. V. GANGAPURWALA AND
V. L ACHLIYA, JJ.
DATE : 03RD MARCH, 2015.**

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

. Rule. Rule made returnable forthwith. With the consent of parties, taken up for final hearing.

2. Mr. Surve, the learned counsel for the petitioner submits that, the petitioner was appointed after having undergone the selection process in the year 2008. After joining service, the petitioner was extended with attestation form, wherein he was required to fill in credentials. The petitioner in the said form had stated that, there is no criminal prosecution pending against him and that there was no arrest or prosecution against the

petitioner.

3. The learned counsel submits that, the said form was forwarded to the police authorities by the respondent and the police authorities conveyed to the respondent that, there was prosecution pending against the petitioner. The learned counsel submits that, it is nothing but a case of similarity of names. It appears that, thereafter in the year 2010 the charge sheet was filed before the Chief Judicial Magistrate, Beed. The same was not entertained. Pursuant to the erroneous information given by the police authorities, the respondent removed the petitioner from service vide order dated 31.10.2012. The learned counsel submits that, even review petition was filed, but no decision is taken on review petition. According to the learned counsel, even the prosecution was not lodged. It was only after the information was sought by the respondent, the police machinery in the year 2010 had sought to file the charge sheet in respect of alleged incident of the year 2003. According to the learned counsel, the said charge is U/Sec. 135-B of the Bombay Police Act. The learned counsel submits that, the same is in respect of taking part in agitation and raising slogans against the Hon'ble Guardian Minister. The learned counsel submits that, the order is too harsh.

4. Mr. Khandare, the learned counsel for the respondent submits that, the petitioner was prosecuted for the offence punishable U/Sec. 135-B of the Bombay Police Act. The

petitioner was arrested and released on same day. It was on the ground that improper information was given, action is taken against the petitioner. It cannot be said to be administrative lapse on the part of the respondent. The decision has been rightly taken for suppressing said fact by petitioner of being prosecuted.

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

6. Going by case paper which are forwarded to us, it appears that, the name of the petitioner appeared in the list of persons taken in the custody and released on same day. It appears that, there was a students agitation in which students were raising slogans against the Hon'ble Guardian Minister for revoking the increase in fees. Apart from that, there is no other charge against the petitioner. It appears that, there were many such students who were taken in custody and released on same day. In the year 2008 there was no prosecution pending against the petitioner. It appears that, in the year 2010 charge sheet was sought to be filed, however, same was not accepted by the Court. No prosecution was pending against the petitioner. Naturally, offence which is alleged is not the one involving moral turpitude, or any of serious nature. It was students agitation, in which the petitioner had participated. With passage of time the said incident may not have any bearing in the mind of the petitioner, as such may not have stated in the attestation form.

7. In the light of the above, the order of removal of the petitioner from service on the said ground is too harsh. The petitioner was appointed in the year 2008 and had served till 2012 as a junior clerk.

8. Denial of backwages to the petitioner from the date of order of removal from service till this date, would be a sufficient punishment to the petitioner.

9. Considering the above, we pass the following order.

10. The impugned order dated 31.10.2012 removing the petitioner from service is quashed and set aside. The respondent shall reinstate the petitioner on his original post. The petitioner will not be entitled for backwages from the date of impugned order till the date of present order. However, the petitioner would be entitled for continuity in service and all other consequential benefits.

Rule accordingly is made absolute in above terms. No costs.

Sd/-
[V. L ACHLIYA, J.]

Sd/-
[S. V. GANGAPURWALA, J.]