

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

WRIT PETITION NO. 7398 OF 2010

Durgadas s/o. Ramrao Aundhekar, .. Petitioner
Age. 47 years, Occ. Nil,
R/o. Shivrai Nagar, Green Park,
Malegaon Road, Nanded,
Dist. Nanded.

Versus

1. The State of Maharashtra, .. Respondents
Through the Secretary,
Co-operation & Textile Department,
Maharashtra State,
Mantralaya, Mumbai - 32.
2. The Collector, Nanded,
Dist. Nanded.
3. The Divisional Joint Registrar,
Co-operative Societies, Latur.

Mr. H.A. Joshi, Advocate for the petitioner.
Mr. S.A. Dhumal, A.G.P. for respondent/State.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.
DATED : 01.09.2015**

ORAL JUDGMENT [PER : A.V. NIRGUDE, J.] :-

1. The petitioner was appointed as a Clerk in respondent No.1's department on the basis of certificate, which the petitioner produced as a nominee of freedom fighter. In the year 2000, a notice was given to the

petitioner alleging that he had submitted a forged nomination certificate, showing false relationship between him and freedom fighter. The petitioner submitted explanation. The petitioner was placed under suspension pending Departmental Enquiry. The petitioner submitted his final defence. The petitioner forwarded copy of Enquiry Report to respondent No.3 and the Enquiry Officer exonerated the petitioner from the charges. The petitioner, however, in 2004 learnt that the Collector was informed about the alleged forgery/falsity in nomination certificate and the Collector had in 1997 cancelled the certificate which was issued by the Collector. In view of cancellation of certificate, the petitioner has no basis to get appointment. The petitioner was eventually dismissed. The petitioner, however, challenged the order of the Collector asserting that the petitioner was not heard before passing the impugned order. Similar situation arose in Writ Petition Nos.785 and 809 of 2002. In these petitions, Division Bench of this Court noted that the impugned order passed by the Collector was passed ex-parte without giving notice to the persons, who were likely to be affected by order. Even in present case, the cancellation took place without giving notice to the petitioner. The Division Bench in the said judgment further held that such order deserves to be set aside and the Collector should be

ordered to hear the petitioner on the question of cancellation of nomination certificate and pass appropriate order. We are also inclined to pass similar order.

i. The impugned order dated 08.12.1997 is quashed and set aside.

ii. The petitioner is directed to appear before the Collector, Nanded, on 15.09.2015.

iii. The Collector, Nanded, is directed to pass appropriate order in accordance with law as expeditiously as possible.

2. The writ petition is allowed in above terms. Rule made absolute accordingly.

[V.K. JADHAV, J.]

[A.V. NIRGUDE, J.]