

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5438 OF 2014

Sandip s/o Dadu Sable,
Age : 30 years, Occ. Service,
R/o Digras, Tq. Rahuri,
Dist. Ahmednagar.

... Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Agriculture Department,
Mantralaya, Mumbai -32.

2. The Mahatma Phule Agriculture University,
Rahuri, District Ahmednagar,
Through its Registrar.

... Respondents

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Advocate for Petitioner : Mr. C. K. Shinde
AGP for Respondent No. 1 : Mrs. S. A. Dhumal
Advocate for Respondent No. 2 : Mr. A. S. Shelke

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 12th AUGUST, 2015

ORAL JUDGMENT (PER S. V. GANGAPURWALA, J.) :-

1. Rule. Rule made returnable forthwith. By consent of parties,
taken up for final hearing.

2. Mr. Shinde, the learned counsel submits that pursuant to the
selection process, the petitioner was selected and appointed as Bullock-
man with respondent No.2 on 13.12.2013. It was a temporary

appointment for a period of six months subject to producing the validity certificate as the petitioner is appointed from SC category. The petitioner is also a handicapped person. Subsequently, the petitioner got validity certificate, as such, regular appointment is given to him on 03.06.2014. On 26.05.2014, the police verification report was received and on 18.06.2014, a notice of termination was issued on the ground that a criminal case is pending against the petitioner and on account of the police verification report received, the petitioner cannot be continued in service. The learned counsel submits that it is not a case of suppression of facts. At no material point of time the petitioner was called upon to disclose the same. The learned counsel submits that the petitioner is also acquitted in that offence under The Maharashtra Prevention of Gambling Act, 1887. The learned counsel relies on the judgment of the Apex Court in a case of **Commissioner of Police and Others Vs. Sandeep Kumar**, reported in **(2011) 4 SCC 644**.

3. Mr. Shelke, the learned counsel submits that action is taken against the petitioner in terms of the appointment order. The petitioner suppressed the fact of pendency of criminal case. The offence was also the one involving moral turpitude. As such, the action has been rightly taken against the petitioner. It was only upon receipt of the police verification report that the notice of termination was issued against the petitioner and thereafter, immediately, action has been taken.

4. We have considered the submissions canvassed by the learned counsel for the respective parties. The petitioner is subsequently acquitted in the said case. The petitioner is not terminated on the ground that there is suppression of fact on his behalf and the same does not reflect in the notice of termination.

5. In the case of **Commissioner of Police** (*Supra*), the Apex Court has considered that though the offence was registered under Section 325 of the Indian Penal Code, the same was not serious one and a lenient view should be taken in the matter. Here also, in the present case, considering the fact that the petitioner is a handicapped person and the offence was under The Maharashtra Prevention of Gambling Act, 1887, so also, the petitioner has been acquitted and the termination was not on account of suppression of facts, we are inclined to entertain the present petition. The petitioner is in service pursuant to the interim orders. Even otherwise, the petitioner is appointed on class IV post i.e. Bullock-man.

6. The impugned notice of termination is quashed and set aside. Rule is made absolute in the above terms. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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