

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

Writ Petition No. 872 of 2008

Prakash s/o. Namdeo Bhavsar,
Age : 52 years,
Occupation : Nil,
R/o. : Plot No. 42/2,
Parakh Nagar, In front of house
of Dr. Jaykar, Jalgaon.

.. Petitioner.

versus

1. The Hon'ble Principal District &
Sessions Judge, Jalgaon
(Disciplinary Authority).
 2. The High Court of Judicature of Bombay,
Through its Hon'ble Registrar General,
High Court of Bombay (A.S.),
Fort, Mumbai.
 3. The State of Maharashtra,
Through its Secretary,
Law and Judiciary Department,
Mantralaya, Mumbai.
- .. Respondents.

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Mr. A.N. Nagargoje, Advocate, for the petitioner.

*Mr. N.B. Suryawanshi, Advocate, for respondent
nos.1 and 2.*

*Mrs. M.B. Gangwal (Patni), Assistant Government Pleader,
for respondent no.3.*

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**CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.**

DATE : 6TH JULY 2015

ORAL JUDGMENT (Per A.V. Nirgude, J.) :

1. Heard learned Counsel for respective parties.
2. This petition challenges concurrent judgments of the authorities below, that the petitioner deserved to be removed from service.
3. The petitioner was working as Junior Clerk in Civil Court at Chalisgaon [District : Jalgaon]. The learned Civil Judge (Junior Division), Chalisgaon, in the course of his duties, passed certain order on an application of a party. The party sought relief as under :-

“ Plaintiff be provided 2 Police Constables,
for 2 days, for the purpose of harvesting of
cotton from land Gat No. 326/B situated at
village Saygaon. ”

This application was ‘allowed’. The petitioner was the Clerk who was deputed for preparation of writ of the Court. The petitioner, it is alleged, intentionally added one more word ‘*cultivation*’ in the writ, thereby the writ directed the Police to provide two Constables for two days, for the purpose of ‘*cultivation and harvesting*’ of cotton. The petitioner took various defences in the domestic enquiry, but in vain. The Enquiry Officer clearly held that the petitioner was guilty of fabricating false evidence and

did not act in his best judgment while discharging his duty. The Disciplinary Authority i.e. learned Principal District & Sessions Judge, Jalgaon, upheld both these findings on facts, and held that the petitioner should be removed from service. The High Court, on its Administrative Side, confirmed this.

4. We have perused the orders and found that, both, the High Court on its Administrative Side, and the Disciplinary Authority, concurred with the finding that the petitioner committed misconduct which involved moral turpitude. In a situation of this nature, the learned Disciplinary Authority exercised his option of penalty. There were three penalties provided for such misconduct viz. dismissal, removal, and the lightest one was, compulsory retirement. The High Court, on its Administrative Side, confirmed this option exercised by the Disciplinary Authority.

5. The learned Counsel for the petitioner urged us, that we should use our discretion and reduce the rigor of the punishment. He suggested, that the petitioner deserved to be compulsorily retired, so that he would get retirement benefits of his 26 years long service. The argument is quite attractive, but we are not accepting this request. The rule for reducing the severity of the punishment / penalty is, that the quantum of punishment should shock conscience of the Court. In this case, we do not find that the penalty awarded to the petitioner was disproportionate or shocking. Since the misconduct involved moral turpitude, the petitioner was suitably punished. We find no reason to interfere in the judgments.

6. In the result, the petition is dismissed. Rule is discharged. In the circumstances of the case, there shall be no order as to costs.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

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