

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1741 OF 2014

[Usha Mahadeorao Wankhede .vs. State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.G. Joshi, counsel for the petitioner,
Mrs. B.H. Dangre, Government Pleader for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : APRIL 09, 2015.

By this petition, the petitioner impugns the order of the Senior Administrative Officer, Home Guard and Civil Protection, Maharashtra State, Mumbai, dated 6.6.2013, discharging the services of the petitioner as a Home Guard under Section 6-B of the Bombay Home Guards Act, 1947 on the basis of the order-report of the District Commanding Officer, Home Guard Unit/Taluka Samadeshak, Home Guard Office, Murtizapur, District-Akola dated 26.3.2012.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the impugned order cannot be interfered with in exercise with the writ jurisdiction. The petitioner was appointed as a Home Guard in the year 1988 and several offences were registered against the petitioner while in service as a Home Guard. The petitioner, however, did not disclose this fact to the respondents and continued to perform her duty. The services of the petitioner were discharged without affording an opportunity of hearing to the petitioner and this court had, by an order dated 23.1.2012, remanded the matter to the respondents for a fresh inquiry after hearing the petitioner. After hearing the petitioner, the respondent no.3 rejected the representation made by the petitioner and held that it was necessary to discharge the services of the petitioner

under Section 6-B (1A) of the Bombay Home Guards Act, 1947.

It appears, on a reading of the impugned order, that the petitioner falsely implicated certain persons in various offences and had also blackmailed them. Though an offence was registered against the petitioner under Sections 504 and 506 of the Indian Penal Code and though the petitioner was acquitted in the same, the petitioner had not disclosed the said fact to the respondents. The petitioner was also prosecuted for an offence under Section 294 of the Indian Penal Code and after convicting the petitioner, a bond of Rs.1,000/- of good behaviour was secured from the petitioner. The said fact was also not disclosed by the petitioner to the respondents. There were several complaints against the petitioner for use of obscene language and for abusing people. It was also found by the respondents that the petitioner was instrumental in publishing a defamatory article against the Home Guard Organization and this showed that the petitioner did not bother about the image of the organization. Several other complaints were also made against the petitioner and those have been considered by the respondent nos.2 and 3 before passing the impugned orders. It also appears that though the petitioner was exonerated in a complaint filed against the petitioner for sending the Home Guards for private duty in a Convent, the authority had clearly found that the petitioner had indeed sent the Home Guards on a private duty. The petitioner was exonerated in the said complaint only because it was found by the authority that the petitioner had paid an amount of Rs.1400/- received from the Convent to the concerned Home Guards. Even if the amount of Rs.1400/- was paid to the concerned Home Guards, we find that the action on the part of the petitioner to send the Home Guards on private duty was not correct. All the aforesaid facts and circumstances were rightly considered by the respondent nos.2 and 3 to hold that the petitioner was not required to be continued as a Home Guard. In accordance with the provisions of the Act, the Home Guard is required to discharge functions and duties in relation to the protection of persons, security of property and public safety as is assigned to them under the Act and the Rules and since the petitioner was appointed in a disciplined force, which was required to discharge

duties in relation to the protection of persons, the respondent nos.2 and 3 rightly found that in the circumstances of the case, the services of the petitioner were liable to be discharged. The orders are just and proper and the same cannot be interfered with, in exercise of the writ jurisdiction.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

Gulande