

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

CRIMINAL WRIT PETITION NO. 253 of 2015.

Rajendra Aasaram Rajput ..vs.. State of Mah. and ors.

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

Court's or Judge's orders

Mr.R.G.Kavimandan, Adv. for the petitioner.
Mr.S.M.Ukey, APP for the State.

CORAM : A.B.CHAUDHARI AND
P.N.DESHMUKH, JJ.
DATED : AUGUST 6, 2015.

Heard learned counsel for rival parties.

Following are the Prayer Clauses made in the Writ Petition.

- “B. By issuing writ of Mandamus or any other writ, order or directions in the like nature, to hold and declare that the petitioner has been illegally detained by the respondents/authorities i.e. the officers of Durdhapur Police Station, Chandrapur for the period i.e. from 12/1/2015 at about 4.35 p.m. to 13/1/2015 at about 2.10 p.m.*
- C. By issuing writ of Mandamus or any other writ, order or directions in the like nature, be pleased to direct to the erring officers those who are responsible for illegal detention of the petitioner to compensate adequately to the petitioner for his illegal detention/illegal confinement, harassment and humiliation caused, as petitioner’s fundamental rights are grossly impaired.*
- D. By issuing writ of Mandamus or any other appropriate*

writ, order or direction in the like nature to take disciplinary action against the erring officials and/or be pleased to initiate appropriate proceeding against them.

Insofar as the Prayer Clause 'B' is concerned, we find the declaration cannot be made by this Court without holding a trial so that all the parties to the lis would get opportunity to place their defence. Hence, said prayer is rejected.

Insofar as Prayer Clauses C and D are concerned, we find that the petitioner has a effective remedy to approach the higher authorities of the police department for prosecuting the concerned in the departmental enquiry. In addition, if the petitioner is entitled to compensation, the remedy lies elsewhere.

Hence, all these issues are matter of trial and cannot be considered under writ jurisdiction of this Court.

Learned counsel for the petitioner has cited decision in the case of Niraj Ramesh Jariwala and ors. .vs.. Mahadeo Pandurang Nikam and ors. reported in [2014(3) Mh.L.J. (Cri.) 484]. We find that looking to the peculiar facts of that case, this court proceeded to take up that matter. In the case at hand, however, we find that the evidence will have to be duly tested by the test of cross examination.

In the light of above observations we make the following order.

ORDER

Criminal Writ Petition No.253 of 2015 is dismissed.

JUDGE

JUDGE

Chute.