

-
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.2344 OF 2014

Dr. Virendra s/o Keshavrao Jumade

-Vrs.-

Rashtrasant Tukdoji Maharaj, Nagpur University, Nagpur thr. Its Registrar,
Nagpur and 4 others.

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

Court's or Judge's orders.

Mr. A. Kilor, advocate for petitioners.
Mr. Agrawal, advocate for respondent nos. 1 to 3.
Mr. Mohgaonkar, Advocate for respondent no. 4.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 15th OCTOBER, 2015

We have heard advocate Kilor for petitioner, advocate Agrawal for respondent nos. 1 to 3 and advocate Mohgaonkar for respondent no.5. Nobody for respondent no. 4 though it is served.

Though several contentions have been raised before us, we do not find it necessary to delve into all those niceties in this matter. The first hearing by respondent no. 3 committee on complaint made by respondent no. 5 against petitioner was conducted on 25.9.2012. Petitioner did not participate in that hearing, as the notice of said hearing was not received by him. Proceedings and record produced before this court dated 25.9.2012 contain a statement that intimation sent long back by Committee to the petitioner was not received by him and

therefore he could not remain present. A communication on these lines sent by petitioner to office of Committee on 3.10.2012 is mentioned in the proceedings. In the proceedings and record dated 25.9.2012 it is obvious that reference to communication dated 3.10.2012 could not have appeared. In any case, if Committee wanted to proceed exparte on very first date of hearing, it ought to have recorded a finding that petitioner failed to appear though served.

Shir Mohgaonkar has attempted to show that in fact as per certificate issued by Sub-Post Master at Saoner, a registered article forwarded by Nagpur University was received by petitioner on 24.9.2012 i.e. a day prior to scheduled date of meeting. Perusal of said certificate shows that upon inquiry Sub Post Master certified that said article was delivered in dispatch department of the college on 24.9.2012. Thus, this certificate does not show that it was served upon petitioner on 24.9.2012.

We find that complaint of harassment made by respondent no. 5 on 7.2.2011 does not contain details which appear to have been deposed by her during her statement recorded on 25.9.2012. The copy of said statement is admittedly not supplied to the petitioner. As per clause 13 of Ordinance no. 4 of 2007, respondent no. 3 Investigative Committee has to take full statements from both parties and copies thereof are to be made available to them. Thereafter they are required to respond to the same in accordance with the principles of natural justice. Obviously, this procedure has not been followed.

In this situation, as we find that respondent no.3 has acted with undue haste and in breach of principle of natural justice, we set aside its recommendations dated 2.8.2013 at Annexure P-17. Matter is placed before respondent no.3 for fresh decision. Petitioner, as also respondent no. 5 are directed to appear before that Committee on 28.10.2015 and to abide by its further instructions in the matter. Committee shall attempt to complete investigation in accordance with law within next two months.

Contention of petitioner that respondent no. 5 had also applied for the post of Principal against which he has been selected and contention of respondent no. 5 to the contrary as also her contention that respondent no. 4 college has not cooperated, are kept open and can be looked into at the appropriate stage.

With these directions, writ petition is disposed of.
No costs.

JUDGE

JUDGE

Hirekhan