

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

WRIT PETITION NO. 2570 OF 2010

RAJENDRA SHAMRAO SABLE AND OTHERS
-VERSUS-
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO.2571 OF 2010

ANIL MADHAVRAO SOLANKE AND OTHERS.
-VERSUS-
THE STATE OF MAHARASHTRA AND OTHERS.

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Advocate for Petitioners : Shri Katneshwarkar S.P.
AGP for Respondents 1 to 3 : Shri P.G.Borade.
None for Respondent No.4.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 27th July, 2016

Per Court:

1 I have heard the learned Advocate for the Petitioners and the learned AGP on behalf of Respondent Nos.1, 2 and 3. None present for Respondent No.4.

2 These matters have been adjourned for one reason or other from 04.01.2016, on numerous dates.

3 I have considered the submissions of the learned Advocate for the Petitioners, who states that, these Petitioners had specifically challenged their oral termination dated 04.08.2005 at the hands of Respondent No.4/ Management, before Respondent No.2 in Appeal Nos.75/2008 and 76/2008. The said appeals were initially rejected on 21.01.2009 concluding that Respondent No.2/ Additional Tribal Commissioner does not have the authority to entertain the grievance of the Petitioners.

4 This Court considered the grievance of these Petitioners in Writ Petition Nos.1359/2009 and 1360/2009 and by it's judgment dated 29.07.2009 concluded that Respondent No.2 has the jurisdiction to deal with the issue of oral termination of the Petitioners. Paragraph 4 of the judgment dated 29.07.2009 reads as under:-

“4. *In the light of that, therefore, this petition is allowed and the impugned order is hereby quashed and set aside and the appeals are remitted back to the Additional Commissioner, Tribal Development, Amravati for decision, in accordance with law. Since the services of the petitioners have been terminated since 04.08.2005, we direct the Additional Commissioner, Tribal Development, Amravati to decide the aforesaid appeals as expeditiously as possible and in any case, not later than six months from the receipt of the writ of this Court.*”

5 The impugned order dated 02.03.2010 has resulted in a

strange conclusion arrived at by Respondent No.2. In the opening paragraph of the order, Respondent No.2 has noted that these Petitioners have specifically challenged their oral termination dated 04.08.2005 and have prayed for reliefs, against their terminations, in the nature of reinstatement. It is also noted that under the orders of this Court, Respondent No.2 was, therefore, considering the said grievance of the Petitioners. Surprisingly, in the concluding paragraphs of the impugned order, Respondent No.2 has granted approval to the appointments of some of the Appellants w.e.f. their dates of appointment and has declined approval to few Appellants on the ground that they are not having requisite qualifications. Similarly, a direction has been given to Respondent No.3 herein to consider the case of Appellant Nos.9 to 12 for grant of approval.

6 The grievance of the Petitioners is, therefore, that when the issue of termination was raised by the Petitioners, no relief has been granted. Their appeals are virtually left undecided though disposed of and such orders have been passed which were never subject matter of adjudication before Respondent No.2.

7 The Petitioners have also filed Contempt Petition No.215/2011 against the Project Officer and the officers of the

Management. However, there is no contempt petition pending against Respondent No.2 herein.

8 I find it unconscionable that Respondent No.2/ Additional Tribal Commissioner, Tribal Development, Amravati Division, Shri G.P.Garad has shown the least respect to the order of this Court dated 29.07.2009. Despite the order of remand, having understood the cause of action, he has passed a completely different order as is evident from the impugned order.

9 The learned AGP, upon going through the impugned order, is unable to state as to why has Respondent No.2 not dealt with the issue of oral termination and why has he dealt with the issue of approval to their appointments which was never subject matter of adjudication. As a consequence of the impugned order, neither there is any verdict as to whether, the oral termination is bad in law, nor any decision as to whether, any of the Petitioners should be granted reinstatement in service. As such, these Petitioners are without employment and without wages on account of the impugned order.

10 In the light of the above, though the matter is now once again being remanded to Respondent No.2 for considering the grievance of oral

termination put forth by the Petitioners, I find this to be a fit case for imposing costs on Shri G.P.Garad, Additional Tribal Commissioner and the said costs will have to be paid from his salary account and the State shall not be burdened with the same.

11 The learned AGP submits that the costs may not be imposed. He is, however, unable to state as to why has Respondent No.2 ignored the observations of this Court and upon remand, why has he not dealt with the cause of action of oral termination.

12 As such, these Writ Petitions are partly allowed. The impugned orders dated 02.03.2010 are quashed and set aside. Both the Appeals No.75/2008 and 76/2008 are remitted back to Respondent No.2 for a rehearing.

13 The litigating sides shall appear before Respondent No.2 on 08.08.2016 at 03:00 pm. Needless to state, the present Additional Tribal Commissioner (Respondent No.2) shall consider the cause of action and the grievance of the Petitioners put forth and deal with the same after considering the contentions of all the litigating sides.

14 Respondent No.2, looking at the fact that this matter is being

remanded for the second time, shall decide the appeals filed by the Petitioners on or before 27th October, 2016.

15 Shri G.P.Garad, Additional Tribal Commissioner, who is the author of the impugned order dated 02.03.2010, which has been set aside today, shall pay costs of Rs.1000/- (Rupees One Thousand) to each of these Petitioners and the said amount shall be paid by him by Account Payee Cheques through his salary bank account, which would be deposited in the office of Respondent No.2 within a period of FOUR WEEKS from today.

16 Learned AGP shall place a copy of this judgment before the Principal Secretary, Tribal Development Department, Government of Maharashtra and report compliance of this order to the Registrar (Judicial) of this Bench, within THREE WEEKS from today.