

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6605 OF 2016

Prakash Bhagwanrao Chavan,
Age- years, Occu-Service,
R/o Aadgaon (Ranjebua),
Tq.Vasmat, Dist.Hingoli

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Through Minister of Co-operation,
Marketing and Textile and Public
Works Department,
Mantralaya, Mumbai-32
2. The Director of
Marketing, Maharashtra State,
Pune,
3. The District Deputy Registrar,
Co-op Societies, Hingoli,
4. The Assistant Registrar,
Co-operative Societies, Aundha (Nagnath),
Dist.Hingoli,
5. The Administrator,
Agricultural Produce Market Committee
Jawla Bazar,
Tq.Aundha, Dist.Hingoli,
6. Agricultural Produce Market Committee
Jawla Bazar,
Tq.Aundha (Nagnath) Dist.Hingoli,
7. Gajanan Annasaheb Chavan,
Age-Major, Occu-Agriculturist,
R/o Berula, Tq.Aundha (Nagnath),
Dist.Hingoli,

-- RESPONDENTS

Mr.V.S.Deshmukh, Advocate for the petitioner.
Mr.S.N.Kendre, AGP for respondent Nos. 1 to 4.
Mr.C.V.Bodkhe h/f Mr.R.V.Gore, Advocate for respondent Nos. 5 and 6.
Mr.A.N.Nagargoje, Advocate for respondent No.7.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 16/11/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner is aggrieved by the order dated 31/05/2016 passed by the Hon'ble Minister and as a consequence of which the revision application filed by the petitioner for challenging his termination dated 07/11/2014 has been rejected.
3. The petitioner has raised primarily two grounds for supporting his challenge to his termination. Firstly, that Rule 103 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 has not been complied with and secondly, respondent No.7 Gajanan Annashaeb Chavan has been reinstated under the orders of the Hon'ble Minister.
4. It is strenuously submitted by the learned Advocate for the

petitioner that unless an opportunity of hearing in tune with Rule 103 was not afforded to the petitioner, the termination is rendered illegal and unsustainable. Neither any show cause notice was served upon him, nor was he served with a charge sheet. Article 311 of the Constitution of India protects the petitioner against such unlawful termination.

5. The learned AGP appearing on behalf of respondent Nos.1 to 4 submits that the petitioner has worked for only 2 months and 10 days. No procedure for selection and appointment was followed. Being the son of a Director of the A.P.M.C., the petitioner was given a back door entry and upon noticing the same, the Hon'ble Minister has rightly rejected his revision application.

6. Mr.Nagargoje, learned Advocate appearing on behalf of respondent No.7 submits that there is no comparison or parity in between the petitioner and respondent No.7. Respondent No.7 has been working from 13/10/2015 onwards. His appointment is sustained and he has therefore been continued in employment. The District Deputy Registrar, Co-operative Societies has approved the appointment of respondent No.7. These factors are missing in the case of the petitioner.

7. Learned Advocate for respondent Nos. 5 and 6 has canvassed on the same lines.

8. Having considered the submissions of the learned Advocates, I find that Rule 103 has to be read in consonance with Rule 102, which provides for penalties. Rule 103 is with regard to the dismissal or removal or reduction of an employee in rank pursuant to conducting an enquiry. Though the petitioner has been removed from service, it is not on account of any charge of mis conduct. Rule 103 was considered, in the light of article 311 in the matter of Pramod Rajaram Chavan Vs.A.P.M.C. 1984(1) BCR, 50 by the Division bench of this Court and it was concluded that the rigours and conditions of employment under Article 311 cannot be compared with Rule 103.

9. Notwithstanding the above, the petitioner having worked for only 2 months and 10 days and considering the fact that no procedure for recruitment and appointment in his case was followed, it cannot be said that the petitioner has a right crystallized in law. So also, the factors in relation to the appointment of respondent No.7 being different, no parity can be drawn between the petitioner and respondent No.7.

10. Considering the above, I do not find that the impugned order passed by the Hon'ble Minister could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)