

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, BENCH AT AURANGABAD**

**REVIEW APPLICATION (CIVIL) NO. 153 OF 2016
WITH
WRIT PETITION NO. 10324 OF 2013**

Madrawati W/o Arjun Kshirsagar

APPLICANT

V E R S U S

The State of Maharashtra & Ors.

RESPONDENTS

Mr. S.R. Chaukidar, Advocate, holding for
Mr. V.S. Panpatte, Advocate for the Applicant
Mr. N.B. Patil, A.G.P. for the Respondent Nos. 1 & 2 – State
Mr. R.B. Bagul, Advocate for Respondent No. 3
Mr. Bhushan Kulkarni, Advocate for Respondent No. 4

**CORAM : A.V. NIRGUDE, &
V.L. ACHLIYA, JJ.**

DATE : 30th August, 2016

P.C. :-

1. Heard the learned counsel for the parties.
2. This application seeks review of order dated 12th April, 2016. In nutshell it is contention of the learned Counsel for the applicant that the order dated 12th April, 2016 passed on the premises that the report of investigation conducted through CID was against the petitioner and the State Government was fully justified in passing the impugned order based upon that report. It is contended that during the investigation the CID has verified both the certificates produced by the petitioner and other correspondence. On verification of the original register maintained with

the Central Prison, Gulbarga, it was transpired that the entry in respect of petitioner exist in the original register maintained by Jail Authority. He has submitted that the report of the CID was misinterpreted and the claim of the petitioner has been rejected. It is further submitted that the petitioner has now obtained a fresh certificate from the Chief Superintendent of Central Prison, Gulbarga, which reaffirm the case of the petitioner that she is entitled to Swatantraya Sainik Sanman Pension.

3. The learned Counsel for the respondents strongly opposed the application and contended that no case is made out to entertain the present application. It is further submitted that Government had taken the decision based upon over all facts of the case and the investigation conducted in the matter.

4. Having appreciated the submissions advanced, we are of the view that the case has been made out to entertain the review application. It appears that the applicant has initially produced one certificate dated 23.10.2013 allegedly issued by the Superintendent, Central Prison, Gulbarga, wherein it was certified that the petitioner was imprisoned in said jail during the period 14.12.1358 Fasli to 13.06.1359 Fasli (i.e. from 14.09.1949 to 13.03.1950). The application of the petitioner was duly scrutinized and it was found that the period of imprisonment reflected in the certificate was post Hyderabad Mukti Sangram i.e. 16.09.1948. The petitioner had claimed that she had participated in Hyderabad Mukti Sangram and sentenced to undergo imprisonment. Since the period of imprisonment was found to be post Hyderabad Mukti Sangram, the application of the applicant was rejected by the State Government. It

appears that the applicant procured another certificate dated 11.03.2010, wherein she was shown a political detainee and remained in Central Prison at Gulbarga during the period 07.01.1357 Fasli to 24.07.1357 Fasli (i.e. 07.01.1948 to 24.07.1948). Based upon said certificate, the matter was again considered and the case was referred to the State Government with the recommendation of the District Committee. In view of the two certificates showing different period of detention and other suspicious circumstances, the Government got conducted enquiry through the State CID. It appears that besides the case of the petitioner the cases of three other persons were also entrusted to the State CID to verify the genuineness of the certificate produced by them in support of their claim for Swatantraya Sainik Sanman Pension. So far as case of the petitioner is concerned, it was transpired that earlier certificate dated 23.10.2013 was not as per the entry in the jail register. Similarly, it was found that in respect of report sent to the Collector on 28.09.2012, no entry found to be recorded in the outward register. However, it was noticed that in the register of political prisoners of the year 1357 Fasli at Sr. No.525, the entry in respect of prisoner No.858 namely Madrawati Arjun exist and the period of entry in the prison shown as 07.01.1357 Fasli and the date of released is shown as 24.07.1357 Fasli with to total period of detention as eleven months.

5. Thus the report of the CID cannot be said to be altogether adverse to the claim of the petitioner on the basis of subsequent certificate produced by her. As per the letter dated 14.05.2015 sent by the Chief Superintend, Central Prison, Gulbarga to Dy. Inspector General of Police (Administration), State CID, Pune, on verification of record pertaining to

the petitioner, following observations have been made :-

“7. The certificate number CPG/POL/3619/2009-10 dated 25-2-2010, in case of Madravati Sirsagar is not found entered at the same number and date in outward register of this office. The signature of issuing authority is not identified by Md.Fareedkhan, FDA. However, the letter by the same number and date is entered for different subject and sent to different address.

8. The verification report in case of Smt. Madravati Sirsagar dated 28-9-2012 to District Collector Latur is not found entered in outward register by the same number and date but office copy is available in the office. The signature of issuing authority on office copy is identified as of Sri. Somashekhar, then Superintendent Central Prison Gulbarga by Md. Fareedkhan FDA. This document was prepared by Md. Fareedkhan FDA, for which his short signature is also there. This verification report was sent in response to letter by District Collector Latur dated 18-9-2012. This letter is also available in the office record.

9. The certificate number CPG/POL/3642/2010 dated 11-3-2010 in case of Smt. Madravati d/o. Arjun is not found entered by the same number and date in the outward register of this office. The signature of issuing authority is identified as of Sri. D. Sangappa, then Superintendent Central Prison Gulbarga by Md. Fareedkhan FDA. A letter by the same number 3642 but by different date 25-2-2010 addressed to ADG & IG Prisons Karnataka for different subject is found entered.

15. Entry in Political Prisoner Jail register in case of Madravati d/o. Arjun Sirsagar is found at Sr. No.525 convict No.858 entry date 7-1-1357 Fasli Quantum of punishment 11 months under law Tahafuz section 27/58 and received by transfer from Osmanabad released on 24-7-1357 Fasli.”

6. Thus the report of verification sent by the Chief Superintendent, Central Prison, Gulbarga, supports the claim of the petitioner. However, the same cannot be treated as conclusive proof. The identity of the prisoners in respect whom the name find place in the jail register and the petitioner needs to be verified by the Department. So also the department is required to satisfy the other requirement which needs to be fulfilled for claiming Sanman pension.

7. In this view, we are of the view that the matter requires reconsideration by the State Government. Ultimately the State Government is the recommending authority and final decision in the matter needs to be taken by the Central Government. We are, therefore, inclined to allow the review application. Accordingly the order dated 12th April, 2015 is recalled and set aside. The petition is partly allowed. The order passed by the State Government rejecting the claim of the petitioner is set aside. The matter is remanded back to the State Government with direction to decide the matter afresh by giving opportunity of hearing to the petitioner. The petitioner is granted liberty to produce additional evidence including latest certificates obtained by her from the Chief Central Prison, Gulbarga in support of the application. It is expressly made clear that we have not made any observations as to the merits of the case of the applicant. The observations as made are for the limited purpose of deciding the review application. The State Government will be at liberty to take fresh decision on merit based upon material on record and fulfillment of other requirement. The State Government may conduct further enquiry and pass appropriate order within six months from the date of communication of the order.

8. The review application as well as the writ petition are disposed of in above terms.

[V.L. ACHLIYA, J.]

[A.V. NIRGUDE, J.]

snk/2016/AUG16/ra153.16