

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

WRIT PETITION NO. 8306 OF 2013

Dr. Pravinkumar S/o Ramrao Gavhane
Age: 37 years, Occu. Medical Practitioner,
R/o: Makani, Tq. Mukhed,
Dist.: Nanded.

...PETITIONER

versus

The State of Maharashtra
Through its Secretary,
Employment Guarantee Scheme
Department, Mantralaya, Mumbai-32
and others

...RESPONDENTS

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Mr. A.D. Chaudhary, Advocate for petitioner
Mrs.A.V.Gondhalekar, AGP for respondents No. 1 to 3
Mr. V.S. Panpatte, Advocate for respondent No. 4

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**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 25th JULY, 2016.

Order :-

1. Mr. Chaudhary, learned counsel for petitioner strenuously contends that petitioner-herein is the Medical Practitioner. The petitioner's family members, who are well settled are shown as labourers in respect of work under the National Rural Employment Guarantee Scheme - 2005. Said scheme is meant to provide employment to poor and unskilled people from rural area. They should at least get work for 100 days in a year. However, instead of diligently implementing the scheme the officers misappropriated the amount and not implemented the scheme and present case is an illustration of the same. The petitioner, who is

Medical Practitioner and his family members, who are well settled, are shown as labourers in the said EGS Scheme. Learned counsel for petitioner submits that petitioner has submitted an application on 02-05-2013 to the Higher Authorities requesting to appoint officer of the rank of Collector and/or Secretary to conduct enquiry and initiate the departmental enquiry against the officers, who are found guilty. Learned counsel for the petitioner submits that the person, who himself is responsible for the irregularities/illegalities, is made member of the Enquiry Committee. This Court while passing order dated 20-01-2015 considered the gravity of the matter and directed the squad constituted by the department to look into the allegations and enquire into the matter. This Court expected the enquiry into the matter to be conducted by higher officials from the EGS Rural Development Department, as there is likelihood of allegations against the members of the task force, who conducted the enquiry. This Court also expected that action would be initiated against erring officials such as holding departmental proceedings, lodging of criminal proceedings wherever commission of crime is noticed. According to learned counsel, no proper steps are taken in that regard.

3. Learned Assistant Government Pleader submits that the Collector/ District programme coordinator (EGS) Nanded, constituted total ten squads headed by the Tahsildar other than of Mukhed taluqa comprising of Block Development Officer (BDO), Taluqa Agricultural Officer, Range Forest Officer and Deputy Engineer (Z.P. And P.W.D.). These squads were directed to make enquiry regarding work

undertaken under the EGS Scheme in Mukhed taluqa. The scope of enquiry was enlarged in respect of other villages also. The squad submitted exhaustive report reflecting irregularities. Upon perusal of the enquiry report, payments towards skilled portion of the work are withheld and directions are issued to Chief Executive Officer, Zilla Parishad, Nanded to take various actions against erring Officers, such as to recover the excess payment of labours with respect to bogus job cards etc. from the salary of Gramsevaks; to initiate a departmental enquiry against the concerned Deputy Engineer, Sectional Engineer and the Gramsevaks, to terminate some of the workers engaged on contractual basis such as technical officers, Gram Rojagar Sevak, who were part of the said irregularities. Learned Assistant Government Pleader submits that orders are already issued terminating the services of contractual workers. The police authorities have also investigated matters by registering the first information report and in many of the cases charge-sheets are filed. According to learned Assistant Government Pleader, stern action is taken against erring officers. Existing squad also comprises Account personnel. The squad comprises higher authorities.

4. We have considered the submissions canvassed by the learned counsel for respective parties and the facts narrated in the petition. No doubt, while implementing laudable National Rural Employment Guarantee Scheme, the persons like Medical Practitioner etc. are shown as labours engaged under EGS Scheme. The persons who are entrusted with implementation of the scheme are ones who are responsible for

implementing the scheme not only successfully but to its full extent having regard to its laudable object. Only after a complaint is filed by the vigilant citizen and thereafter only, the authorities had constituted squad. Even this Court was required to pass order directing the higher officials in the scheme to investigate into the matter.

5. Considering the affidavit-in-reply filed by the Collector, Nanded we are satisfied that belatedly action has been initiated against erring officers, it would be appropriate to reproduce the Paragraphs No. 4, 5, 6, 7 and 8 of the affidavit in reply, below.

“4. It is submitted that, to inquire into the complaints received by the various authorities about the works undertaken under this scheme in Mukhed Taluka on 22-02-2013 the then Collector/ District programme Co-ordinator (EGS) Nanded constituted total 10 squads each headed by a Tahsildar other than of Tq. Mukhed comprising Block Development Officer (BDO), Taluka Agricultural Officer (TAO), Range Forest Officer (RFO) and Deputy Engineer (Z.P. and P.W.D.). These squads were directed to make inquiries regarding the works undertaken under aforesaid scheme in Mukhed taluka. The copy of the order dated 22-02-2013 is enclosed herewith and marked as EXHIBIT R-1 for ready reference.

5. It is submitted that after receiving the notice regarding the Writ Petition through the Divisional Commissioner, Aurangabad, this office came to know about the directions regarding the enquiry of two works undertaken under aforesaid scheme in the villages comprising Mandalpur, Borgaon and Gojegaon. Therefore, this office by order dated

05-07-2014 directed existing vigilance squad to enquire into the works undertaken under aforesaid schemes in these three villages. The copy of the orders dated 05-07-2014 giving direction is placed at EXHIBIT R-2 and R-3.

6. It is submitted that exhaustive reports reflecting irregularities and misappropriations were received from these vigilance Squads somewhere around 08-08-2014 and 15-09-2014. On perusal of enquiry report, payments towards skilled portion of the work are withheld. Accordingly, following directions were issued to Chief Executive Officer, Zilla Parishad, Nanded for taking action against the erring officers:

(i) To recover the excess payment of labours (with respect to bogus job card etc.) from the salary of Gramsevak.

(ii) To initiate a Departmental inquiry against the concerned Deputy Engineer, Sectional Engineer and the Gramsevak.

(iii) To terminate some of the workers engaged on contractual basis such as technical officers, Gram Rojgar Sevak who were part of the irregularities.

7. It is submitted that the orders terminating contracts of the contractual workers are enclosed here with and marked as EXHIBIT R- 4 Colly.

8. It is submitted that, the Police Authorities also investigating by registering F.I.Rs. regarding the connected matters. So far as the case village Mandalapur is concerned

the record of this village is handed over to Police Authority and matter is under investigation.”

6. We hope and trust that whatever has been stated in the affidavit-in-reply and assured, would be taken to its logical end.

7. Writ petition, as such, stands disposed of accordingly. No costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK