

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9623 OF 2015

The District Collector, Dist. Pune
and Anr.

.. Petitioners

Vs.

Shri. Kisan Dhondiba Talpe

.. Respondent

....

Mr. A.I. Patel A.G.P. for Petitioners

Mr. N.V. Bandiwadekar Advocate i/b Mr. Sagar A. Mane
Advocate for Respondent No.1

....

**CORAM : D.H.WAGHELA CHIEF JUSTICE &
SMT.V.K.TAHILRAMANI, J.**

DATE : FEBRUARY 15, 2016

ORAL ORDER [PER SMT. V.K.TAHILRAMANI, J.] :

1 Heard learned counsel for both sides. Rule. By consent, Rule is made returnable forthwith and petition is taken up for final hearing.

2 This petition has been preferred by the petitioners District Collector, Pune and Divisional Commissioner, Pune

against the respondent.

3 The respondent was Aval Karkun. He was reverted to the post of Clerk for his entire service period after Departmental Enquiry, hence, he preferred Original Application No. 255 of 2014. The said Original Application came to be allowed by order dated 11-12.8.2014 passed by the Maharashtra Administrative Tribunal, Mumbai, hence, this petition.

4 The learned AGP for the petitioners submitted that in the Original Application an affidavit was filed on 11.6.2014 by Shri. Waydande, Naib Tahsildar from the office of Tahsildar, Pune City Pune. The said affidavit came to be rejected by Tribunal as the same was not filed by an Officer from the office of District Collector, Pune and it was directed by the Tribunal that the District Collector to file affidavit of responsible officer from his office i.e. the office of the Collector. Thereafter, Mr. Raundal from the office of District Collector filed his affidavit before the Tribunal, however, the Tribunal disposed of the Original Application relying on paragraphs 3 and 4 of the

affidavit filed by Shri. Waydande, Naib Tahsildar, which affidavit had earlier been rejected by the Tribunal.

5 The learned counsel for the respondent fairly admitted that the Original Application was disposed of on the basis of earlier affidavit filed by Shri. Waydande which affidavit had earlier been rejected by the Tribunal.

6 In view of above, the order dated 11-12.8.2014 passed by the Tribunal cannot sustain, hence, the said order is set aside. The matter is remanded back to the Tribunal for considering Original Application No. 255 of 2014 afresh. Writ Petition is allowed in above terms.

7 All contentions of the parties are kept open to be agitated before the Tribunal.

8 Rule is made absolute in above terms.

[SMT. V.K.TAHILRAMANI,J.]

[CHIEF JUSTICE]