

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 536 OF 2015

Rajendra Somnath Ambre	..	Petitioner
VS.		
The Chief Executive Officer, Zilla Parishad, Nashik & Ors.	..	Respondents

Mr. P. N. Joshi with N. M. Pujari for Petitioner.
Mr. A. R. Kapadnis for Respondent No. 1
Mr. Sachin Gite for Respondent No. 3.

CORAM : M. S. SONAK, J.
DATE : 01 FEBRUARY 2016

P.C :

1] Rule. Rule is made returnable forthwith with the consent and at the request of the learned counsel for the parties.

2] Even otherwise, this Court by its order dated 12 June 2015, had made it clear that this petition may be heard and disposed of finally at the stage of admission.

3] The challenge in this petition is to the order dated 22 September 2014 made by the Chief Executive Officer (CEO), Niphad, disposing of the petitioner's appeal questioning the termination of his services by the then Gram Panchayat, Niphad.

4] By the impugned order, which is, both cryptic as well as non speaking, the petitioner has been directed to be reinstated subject to compliance with certain conditions. The learned counsel for the petitioner submits that the conditions imposed are too onerous and in fact, they are incapable of compliance. On the other hand, the learned counsel appearing for the respondent nos. 1 and 3 submit that this was not at all a fit case for grant of any relief to the petitioner. In any case, they submit that since the charge against the petitioner was of misappropriation, the condition imposed is not onerous, but the condition imposed is in the context of such charge of misappropriation which was levelled against the petitioner.

5] The learned counsel for the respondent nos. 1 and 3 point out that in pursuance of the impugned order dated 22 September 2014, the then Gram Panchayat of Niphad has issued a reinstatement order dated 27 February 2015, incorporating therein the condition specified in the impugned order. They submit that the petitioner has not challenged the reinstatement order dated 27 February 2015.

6] In my judgment, submission of Mr. Joshi is correct that the reinstatement order dated 27 February 2015 is merely, an order in compliance with the impugned order dated 22 September 2014.

Since the order dated 22 September 2014 is itself impugned in this petition, there was no necessity of further questioning the reinstatement order dated 27 February 2015. In any case, Mr. Joshi points out that there was no reinstatement in pursuance of reinstatement order, because, the conditions were incapable of compliance and further, the petitioner has also attained the age of superannuation.

7] The learned counsel for the parties pointed out that in the meanwhile the Gram Panchayat of Niphad has been converted into a Municipal Council of Niphad.

8] Upon consideration of the material on record, one thing is clear and that is the impugned order dated 22 September 2014 is both cryptic as well as non speaking. The impugned order completely misinterprets the earlier order made by this Court in the matter of condonation of delay. There is hardly any consideration of both, the petitioner's as well as the respondents contention. This is not satisfactory manner of disposal of appeals. Therefore, without going into the merits and demerits of the contentions of both the parties, it will be appropriate if the impugned order dated 22 September 2014 is set aside. The same is therefore set aside.

9] The matter is remanded to the CEO for fresh consideration. The CEO shall afford opportunity of hearing to all the parties, including the newly constituted Municipal Council of Niphad, which is a successors to Gram Panchayat of Niphad and thereafter, dispose of the petitioner's appeal in accordance with law and on its own merits. Since, the impugned order dated 22 September 2014 is set aside, obviously, the reinstatement order dated 27 February 2015 which was merely in compliance with the impugned order will not survive and the same is also hereby formally set aside.

10] The parties to appear before the CEO on 24 February 2016 at 3 p.m. and submit authenticated copy of this order. The CEO to endeavour to dispose of the petitioner's appeal as expeditiously as possible and in any case within a period of six months from the date of production of authenticated copy of this order.

11] All contentions of all parties are kept open.

12] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

13] All concerned to act on basis of authenticated copy of this order.