

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6260 OF 2015.

Gajanan Raghunath Deshmukh

..VS..

The State of Mah. and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.P.D.Sharma, Adv. for the petitioner.
Mrs.H.N.Prabhu, AGP for resp.no.1.
Mr.M.A.Sable, Adv. for respondent nos.2 to 4.
Mr.R.J.Shinde, Advocate for respondent no.5.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : MARCH 21, 2016.

Heard Advocate Shri Sharma for the petitioner, Advocate Shri Sable for respondent nos.2 to 4, Advocate Shri Shinde for respondent no.5 and learned Assistant Government Pleader for respondent no.1.

It appears that consequent to Resolution of the Gram Panchayat, Varah dated 26th of January, 2014, petitioner has been dismissed from service.

Advocate Sharma points out that enquiry report in the matter has come thereafter i.e. on 17th of April, 2014 and petitioner has been found only partially guilty. He has invited our attention to representation submitted by petitioner on 7th of January, 2014 where

he has explained the situation.

Advocate Sable, Advocate Shinde and learned AGP submit that alternate remedy is available to petitioner. Advocate Shinde further points out that after termination of petitioner, respondent no.5 has been recruited and he is functioning as 'Gram Rojgar Sevak'.

We do not wish to go into the disputed questions of facts at this stage. The perusal of enquiry report dated 17th of April, 2014 submitted by Extension Officer (Panchayat Samiti Morishi) reveals that he has found petitioner partially guilty of drawing wages of one Pushpa Wankhade along with others. Explanation of petitioner dated 7th of January, 2014 addressed to Block Development Officer complains of pressure on him by labour and other persons. He has also pointed out that entire village is united against him in the matter.

Thus, facts need verification properly. In this background a decision to terminate petitioner has been taken on 26th of January, 2014 i.e. even before receipt of report of Inquiry Officer.

We therefore quash and set aside that Resolution.

Considering the nature of allegations and explanation pointed out by the petitioner, we direct respondent no.2 to take fresh decision in the matter as per law after looking into enquiry report and

explanation given by petitioner. If necessary, opportunity of hearing shall be extended to the petitioner.

The procedure in this respect shall be completed in next three months.

As respondent no.5 has already started working during pendency of this proceedings, we are not inclined to disturb his working. However, the petitioner shall be presumed to be under suspension pending enquiry from today until the culmination of proceedings. If petitioner is ultimately exonerated, he shall be reinstated back in service. The respondent no.2 – Gram Panchayat in that event shall decide his entitlement to back wages.

With these directions, we partly allow the Writ Petition.

No costs.

JUDGE

JUDGE

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