

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

WRIT PETITION NO. 2318 OF 2007

Principal Secretary,
Animal Husbandry, Dairy
Development and Fisheries Dept.
Mantralaya, Mumbai. .. Petitioner

Versus

Dr. Vijaykumar Baliram Sarwade,
R/o Udgir, Makbul bawadi Road,
Udgir, Dist. Latur. .. Respondent

Shri R. V. Dasalkar, A.G.P. for Petitioner/State.
Shri N. B. Nandagavale, Advocate h/f Shri V. G. Sakolkar,
Advocate for the Respondent.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 24TH AUGUST, 2017.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. The petitioner assails the order passed by the Maharashtra State Human Rights Commission only to the extent that it directs action to be taken against the Officer/Principal Secretary, Animal Husbandry, Dairy Development and Fisheries Department. The rest of the order directing reinstatement to the respondent is not under challenge.

2. We have heard Mr. Dasalkar, the learned Assistant

Government Pleader for the petitioner and the learned counsel for the respondent.

3. The Commission has issued directions to take necessary action against the officer on the ground that the applicant before it that is the respondent is deprived from his job and is required to be compensated. The Commission directed reinstatement. The said order has been complied and the respondent is reinstated as submitted by the learned counsel for the respondent.

4. It appears that, the Commission came to the conclusion that the petitioner acted discriminating in the matter of Dr. Sarwade, Dr. Waghade and Dr. Naiknavare in comparison to Dr. Khose, who got opportunity to continue in the job, though the qualification and departmental examination status of all the employees was the same on 22.07.2003.

5. It has been stated that, as far as Dr. Sarwade is concerned, he had not passed the departmental examination. Dr. Patil had already passed the departmental examination. Dr. Khose had passed his departmental examination in January 2004. There was intervention by M.L.A. and his additional say was placed before the M. L. A. Mr. Waghade. Dr. Sarwade was selected in the year 1992, whereas, Dr. Khose was selected in the year 1994.

Both the cases cannot be treated at par. It appears that, even the commission did not hear the Principal Secretary before passing the said order and without hearing concluded that his act is illegal and vindictive.

6. The Commission before ordering action, ought to have heard the delinquent against whom action was directed. It was a fact that, the respondent had not passed departmental examination.

7. Considering the above, the writ petition is allowed. Rule is made absolute in terms of prayer clause 'B'. No costs.

Sd/-
[MANGESH S. PATIL, J.]

Sd/-
[S. V. GANGAPURWALA, J.]

bsb/Aug. 17