

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

WRIT PETITION NO.5047/2016
AND
CIVIL APPLICATION W. NO.2380/2016

Shri Sudhakar Sambhaji Dangre

...Versus...

Zilla Parishad, Yavatmal, through its Education Officer (Primary), Zilla Parishad,
Yavatmal

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

Court's or Judge's orders

Shri Ramesh Darda, Advocate for petitioner
Shri S.C. Bhalerao, Advocate for respondent
Shri A.S. Dhore, Advocate for intervenor/applicant

CORAM : B.P. DHARMADHIKARI AND
ARUN D. UPADHYE, JJ.

DATE : 21.08.2017

Heard for some time.

2. On behalf of complainant, whose complaint led the action against petitioner, Advocate Shri Dhore has filed Civil Application No.2380/2016, seeking leave to intervene.

3. By impugned order, recovery of Rs.6,77,330/- is sought from petitioner on account of misappropriation of food articles to be used towards Mid Day Meal Scheme. Period roughly is of about three years.

4. After hearing respective Counsel, we find that though complaint contained serious grievance, its due cognizance has not been taken. Only a questionnaire containing 12 questions was

handed over to petitioner by Accounts Officer and petitioner submitted his reply thereto. On the basis of that reply, recovery has been ordered.

5. If there was misappropriation, proper charge-sheet should have been prepared and departmental enquiry could have been conducted against the petitioner. In any case, if public money was misappropriated, necessary cognizance should have been taken.

6. In enquiry, in such matters, records could have been produced, witnesses could have been examined in-chief and cross-examined or then respondent – employer could have pointed out that petitioner has accepted the guilt.

7. That is not the defence at all before this Court.

8. In this situation, we direct respondent to serve upon petitioner necessary charge-sheet as per Discipline and Appeal Rules and to proceed departmentally against him.

9. The enquiry, as per law, shall be completed within four months.

10. At this stage of dictation, our attention is invited to the fact that school in which petitioner is functioning is not party before this Court and that school is a private aided institution to which provisions of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 apply. It is also pointed out that Management of that school has not taken any action against petitioner.

11. In view of this disclosure, we direct the respondent – Zilla Parishad through its education department to take necessary action against that Management as per law after giving it due

opportunity, if it has failed to discharge any obligation in the matter.

12. Needless to mention that for working out recovery, respondent – Zilla Parishad shall procure necessary records and conduct enquiry with the assistance of said records against the petitioner and that enquiry shall also be completed within four months from today.

13. Subject to outcome of such enquiry, we quash and set aside the impugned communication dated 6/8/2016 at Annexure – 8 with the petition.

Writ Petition is disposed of accordingly. The civil application also stands disposed of.

There shall be no order as to costs.

JUDGE

JUDGE

Wadkar