

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

WRIT PETITION NO.14127 OF 2018

Kamalbai w/o Bhagwat Dede,
Age :- 67 years, Occu – Household,
R/o Kamal Nivas, Tirupati Society,
Udgir, Dist. Latur.

...PETITIONER
(Applicant)

VERSUS

Dnyaneshwar Wamanrao Suvarnakar,
Age :- 40 years, Occu – Agriculture,
R/o . Nalgir, Tal.-Udgir, Dist. Latur.

...RESPONDENT
(Ori.Respondent)

...

Advocate for the Petitioner	: Shri S. D. Tawshikar
Advocate for the Respondent	: Shri V. G. Kodale h/f.
	Shri P. G. Rodge

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 13th FEBRUARY, 2019.

...

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

2. The petitioner, who is a treasurer of the Annabhau Sathe
Magaswargiya Mahila Vikas Sanstha, Ghonsi, Tal. Jalkot,

District Latur is aggrieved by the 'no cross' order dated 14/05/2018, the order dated 11/06/2018 passed by the Assistant Charity Commissioner, by which, her application Exhibit 110 in Enquiry No. 161/2014, seeking leave to cross-examine the returning officer, has been rejected. Exhibit 110 was rejected since it was not supported with an affidavit. The petitioner, therefore, filed another application Exhibit 113 supporting it with an affidavit which was also rejected by the impugned order dated 03/08/2018.

3. I have heard the learned Advocates for the respective sides. The respondent strenuously submits that this petition deserves to be dismissed with heavy costs.

4. A change report enquiry is the issue before the authority. Cross-examination of the witness Shri B. P. Nagargoje was to be carried out by the petitioner. Despite several opportunities, the cross-examination was not conducted and, therefore, the said witness Shri B. P. Nagargoje was discharged and 'no cross' order was passed on 21/11/2017. Pursuant thereto, the application filed by the petitioner was allowed on 29/01/2018.

By imposing costs of Rs. 2,000/- the 'no cross' order was vacated. Thereafter, almost eight dates were granted and still the petitioner did not cross-examine the witness resulting in the second 'no cross' order being passed on 14/05/2018.

5. Having considered the submissions of the learned Advocates, I find that though the conduct of the petitioner is quite gross. However, one last opportunity by imposing heavy costs could be granted as a change report enquiry is the subject matter before the concerned authority. The learned Advocate for the respondent submits that one portion of the costs may be donated for the treatment of the poor patients.

6. In view of the above, this petition is partly allowed. The impugned order dated 03/08/2018 is quashed and set aside and application Exhibit 113 is allowed with the following directions.

(a) The petitioner shall deposit an amount of Rs. 2,500/- (Rs. Two Thousand Five Hundred only) with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court**

Dispensary, Aurangabad, either in cash or by Demand Draft (Demand Draft be drawn in the name of **“Dean, Government Medical College and Hospital, Aurangabad Dengi Samiti”**) on or before 28/02/2019 and produce a receipt of such deposit before the Assistant Charity Commissioner on 07/03/2019.

(b) The petitioner shall deposit an amount of Rs. 5,000/- (Rs. Five Thousand only) with the Assistant Charity Commissioner on or before 07/03/2019.

(c) If either of the above directions are not complied with, this order shall stand recalled and the 'no cross' order shall stand restored with effect from 08/03/2019.

(d) The witness Shri D. P. Nagargoje shall remain present before the said authority on 15/03/2019 at 11.00 a.m.

(e) The petitioner shall cross-examine the said witness on 15/03/2019 and shall conclude the cross-examination on the same date, failing which, the said witness would be discharged.

(f) After 15/03/2019, the petitioner shall record the evidence of her witnesses, if any, on or before 30/04/2019.

(g) The concerned authority shall endeavour to decide the proceedings on or before 30/06/2019.

7. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

shp/-