

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.823 OF 2018

Shri Nandalal P. Kerkar,
Son of Pandurang Kerkar,
aged 39 years,
Indian National,
resident of House No.8/88,
Nigwado, Saligao,
Bardez Goa.

... Petitioner

Versus

Village Panchayat Saligao,
through its Secretary,
having office at Panchayat Ghar,
Saligao, Bardez Goa 403 511

.... Respondent

Mr. Devidas J. Pangam, Advocate for the Petitioner.

Mr. Carlos Alvares Ferreira and Mr. Shane Gomes Pereira, Advocates for the Respondent.

***Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.***

Date: 6th March, 2019

Oral Judgment (Per M. S. Sonak, J)

Heard Mr. D. Pangam, learned counsel for the Petitioner and

Mr. C. A. Ferreira, learned counsel for the Respondent.

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

3. Mr. C. A. Ferreira, learned counsel waives service on behalf of the Respondent.

4. The challenge in this petition is to the order dated 24th July, 2018, by which the services of the Petitioner came to be terminated on the ground that his services were "*no more required*". Along with the termination letter dated 24th July, 2018, the Petitioner was furnished a copy of the resolution passed by the Panchayat.

5. There is no dispute that before the impugned order of termination was made, there was no compliance with the principle of natural justice. According to us, the impugned order undoubtedly visits to the Petitioner with civil consequences. Therefore, such action should have been preceded by compliance with the principle of natural justice. On the short ground, the impugned order is required to be set aside.

6. Mr. Pangam, learned counsel points out that there are statutory

rules, which govern the service condition of the Petitioner and such rules are required to be complied with before any action for termination is resorted to. On the other hand, Mr. C. A. Ferreira, learned counsel points out that there was basic infirmity in the appointment of the Petitioner and therefore, there may not be any requirement for compliance with such statutory rules, assuming the same are at all applicable to the case of the Petitioner.

7. According to us, at this stage, it is not necessary for us to go into the aforesaid issue. All that we say is that such order of termination, which, undoubtedly visits the Petitioner with civil consequences, could not have been made without compliance with the principle of natural justice as also, the compliance with any further statutory provisions, if at all applicable. The record indicates that the Petitioner had continued to work as a Peon of Village Panchayat for almost two years before the date of the impugned termination order.

8. Accordingly, solely on the ground that the impugned order was not preceded by compliance with the principle of natural justice and without going into all further issues or contentions raised by the learned counsel appearing for the parties, we set aside the impugned order dated 24th July, 2018 and order the reinstatement of the Petitioner with all

consequential benefits.

9. The reinstatement to be effected by 18th March, 2019. Further, it is made clear that this order shall not at all be any impediment to the Panchayat taking appropriate action as is permissible under the law, as against the Petitioner, if the Panchayat so desires. All contentions of all parties in this regard are specifically kept open.

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

11. All concerned to act on the basis of the authenticated copy of this order.

Nutan D. Sardesai, J

M.S. Sonak, J

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