

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

WRIT PETITION NO. 3651 OF 2018

(Manik Bhaurao Lonkar vs. The State of Maharashtra thr. its Secretary, Irrigation Development
& Ors.)

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

Court's or Judge's orders.

**CORAM : SUNIL B. SHUKRE &
PUSHPA V. GANEDIWALA, JJ.
MARCH 19, 2019.**

Heard Shri S.N. Gaikwad, learned counsel for the petitioner, Mrs. G.R. Tiwari, learned AGP for respondent No. 1, Shri V.G. Palshikar, learned counsel for respondent No. 2, Shri R.R. Dawda, learned counsel for respondent No. 4 and Shri Sachin Joting, learned counsel for respondent No. 5. Nobody appears for respondent No. 3.

By this petition, the petitioner has sought a direction to the respondents for initiation of inquiry against respondent Nos. 1 to 3 & 5. The allegations made in this petition are in nutshell about the misconduct, misbehaviour, gross misconduct and lack of integrity shown by respondent No. 4 while serving as Junior Engineer with respondent No. 5.

Firstly, the allegations if at all are there, have to be necessarily made before the Head of the Department of Respondent No. 5 or Respondent No. 1 by filing a complaint. Even if the allegations are given a concrete form by filing a complaint, there is a further question which would require consideration and it should be as to whether or not this Court could sit in appeal over the decision taken by the

Head of the Department, who refused to take cognizance of the complaint or takes cognizance of the complaint in a particular manner. So, our inquiry would first begin from the point whether a complaint has been filed by the petitioner against respondent No. 4 in the instant case.

However, we find from the averments made in the petition that basically no such complaint, making such allegations, has been filed against respondent No. 4. Even if such a complaint has been filed, a copy of the complaint has not been placed on record. So, this petition lacks the very basis which is required for establishing the legal right, if at all it is there in the petitioner, vis-a-vis these respondents.

In this view of the matter, we find that this petition, in the way it has been filed before this Court, is not maintainable. Writ Petition is dismissed.

Part of the amount of Rs.20,000/- deposited in this Court by the petitioner, to show his bonafides, would have to be forfeited for consuming the valuable time of the Court and also making the respondents, to spend their valuable time.

Accordingly, the amount of Rs.10,000/- (Rs. Ten thousand only) is directed to be forfeited to the State Government and same shall be transferred to the Account of High Court Legal Services Sub-Committee, Nagpur. The remaining amount of Rs.10,000/- be refunded to the petitioner, with accrued interest thereon, if any.

Writ Petition is disposed of accordingly.

JUDGE

JUDGE