

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

WRIT PETITION NO. 4683 OF 2019

Vishal Dattatraya Kadam .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Ms. P. S. Talekar, Advocate i/by Talekar and Associates,
Advocate for the Petitioner.

Shri S. B. Yawalkar, Add.G.P. for Respondent Nos. 1 to 3.

Shri Anup R. Nikam, Advocate for the Respondent No. 4.

The Respondent No. 5 is served.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 25TH FEBRUARY, 2020.

FINAL ORDER :

. The petitioner seeks implementation of the order of the Commissioner allowing the appeal of the petitioner and directing reinstatement.

2. Mr. Nikam, the learned counsel for the respondent No. 4 submits that, the petitioner is not an employee of the Zilla Parishad and was appointed under MGNREGA scheme. In view of that, Divisional Commissioner could not have invoked its jurisdiction under Rule 13 and 14 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules. The learned counsel submits that, the judgment of the Commissioner without jurisdiction is nullity. The learned counsel relies on the

following judgments of the Apex Court.

- i. Sarup Singh and another Vs. Union of India and another reported in (2011) 11 SCC 198.
- ii. Chiranjilal Shrilal Goenka (Deceased) Through L.Rs. Vs. Jasjit Singh reported in (1993) 2 SCC 507.
- iii. Amrit Bhikaji Kale Vs. Kashinath Janardhan Trade reported in (1983) 3 SCC 437.

3. There cannot be any dispute with the proposition that the judgment delivered by the Court that lacks inherent jurisdiction is nullity. Though said principle can not be applied for lack of territorial or pecuniary jurisdiction in the present case.

4. The termination order issued by the Chief Executive Officer to the petitioner and assailed before the Commissioner itself states that, the petitioner is relieved from the service of the Zilla Parishad. The Chief Executive Officer was also party before the Commissioner. He has filed his say, but had not raised the ground that the petitioner is not an employee of the Zilla Parishad. The Zilla Parishad also has remedy to challenge the said order in revision. For more than a year, the Zilla Parishad has not chosen to avail remedy to assail the said order.

5. Considering the tenor of the termination order that the petitioner is relieved from the service of the Zilla Parishad and the fact that, the Commissioner has exercised its jurisdiction, we pass following order.

6. The respondent No. 4/Zilla Parishad shall implement the order passed by the Commissioner within a period of four (04) weeks from today. The same would be without prejudice to the rights of the respondent No. 4 to agitate with regard to the order of the Commissioner as may be permissible in law. In that case contentions of the respondent No. 4/Zilla Parishad are kept open.

7. In view of the above, the writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Feb. 20