

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

WRIT PETITION ST. NO.13213 OF 2020

Manik s/o Nanasaheb Kachole ... PETITIONER

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Shri C.K. Shinde, Advocate for petitioner
Shri S.B. Yawalkar, A.G.P. for State
Shri M.N. Nawandar, Advocate for respondent No.2
.....

**CORAM: S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 13th August, 2020

ORAL ORDER :

Mr. Shinde, learned Advocate for the petitioner submits that, the petitioner is working on the post of Fitter with respondent No.2. A criminal case is lodged against the petitioner. The petitioner is on bail on certain terms and conditions. The respondents suspended the petitioner in contemplation of departmental enquiry. Thereafter, under the impugned order, the headquarter of the petitioner is changed to Agricultural College, Kolhapur. The learned Advocate submits that, the same is at a distance of 350 Kms. The enquiry would be conducted at Rahuri. It will not be possible for the petitioner all the time to attend at Rahuri and more particularly in this pandemic- Covid-19 situation. The learned Advocate submits that, the petitioner is required to attend

Rahuri Police Station on every Monday and Tuesday between 11.00 a.m. and 2.00 p.m.

2. Mr. Nawandar, learned Advocate for respondent No.2 submits that, as per Government Resolution dated 20/4/2013, the petitioner is sent at another place. The learned Advocate further submits that, at the place of petitioner, another person is already transferred on 10/8/2020. The learned Advocate submits that, the post for the petitioner will not be available at Rahuri. The problem would come of paying the subsistence allowance at Rahuri as the post is already filled in by transfer. Considering the allegations made in the complaint, the petitioner is transferred to Kolhapur.

3. We have considered the submissions. The Government Resolution dated 20/4/2013 would not inure to the benefit of respondent No.2. The said Government Resolution will apply if the employee is reinstated after suspension. It says that, if the employee is to be reinstated after suspension, he should be posted at another place on non-administrative post. The petitioner herein is under suspension. His suspension is not revoked. The petitioner is also not challenging the order of suspension, as contended by learned Advocate for the petitioner.

4. The enquiry is to be conducted at Rahuri. The petitioner is on bail. The Additional Sessions Judge-2, Ahmednagar, under its order dated 5/8/2020, has imposed certain conditions upon the petitioner. One of the condition is that the petitioner shall report to

the concerned Police Station on every Monday and Tuesday between 11.00 a.m. and 2.00 p.m. until further orders.

5. The petitioner would be required to appear before the Rahuri Police Station on every Monday and Tuesday between 11.00 a.m. and 2.00 p.m. It would not be prudent for the employer to change the headquarter of the petitioner at Kolhapur during his suspension and more particularly when the petitioner is required to attend the Rahuri Police Station on every Monday and Tuesday between 11.00 a.m. and 2.00 p.m. The same would not be feasible. Of course, the condition of bail i.e. attending the Rahuri Police Station on every Monday and Tuesday between 11.00 a.m. and 2.00 p.m. is relaxed, the respondent No.2 can consider about the change of headquarter in accordance with the facts and circumstances of the case that would be available at the relevant time.

6. In light of the aforesaid fact, we set aside the impugned order changing the headquarter of the petitioner. Writ Petition is accordingly allowed in above terms.

(R.G. AVACHAT)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

fmp/-