

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

WRIT PETITION NO. 10138 OF 2018
WITH CA/11277/2018 IN CA/7673/2016 IN WP/10138/2018

Late Rewa Naik Charitable Trust
Shantiniketa, Tilak Nagar, Nanded,
Through its Secretary
Ravindra Bansilal Jadha ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

....

Mr. P.D. Bachate, Advocate for the Petitioner.
Mr. P.K. Lakhotiya, A.G.P. for Respondent Nos.1 to 3.
Mr. K.P. Rodge, Advocate h/f Mr. P.G. Rodge, Advocate for
Respondent No.4.

AND
WRIT PETITION NO. 10733 OF 2018

Nagorao S/o Bhaurao Chavan ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

....

Mr. K.P. Rodge, Advocate h/f Mr. P.G. Rodge, Advocate for the
Petitioner.
Mr. S.W. Munde, A.G.P. for Respondent Nos.1 to 4
Mr. P.D. Bachate, Advocate for Respondent Nos.5 and 6.

2

**AND
WRIT PETITION NO. 8039 OF 2020**

Late Rewa Naik Charitable Trust
Shantiniketa, Tilak Nagar, Nanded,
Through its Secretary
Ravindra Bansilal Jadha ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

....

Mr. P.D. Bachate, Advocate for the Petitioner.
Mr. P.S. Patil, Addl.G.P. for Respondents / State.

....

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

DATE : 04th DECEMBER, 2020

PER COURT:-

1. All these three petitions are arising out of the order passed by Regional Deputy Commissioner, Social Welfare, Division Latur, thereby setting aside the order of termination issued by the employer trust against the employee.

2. Mr. Bachate, the learned counsel for the employer submits that large scale fraud, misappropriation is committed by the employee. Even criminal case was filed against the employee. The enquiry was

conducted and, after enquiry, the employee was terminated. This aspects ought to have been considered. If the authority has come to the conclusion that the constitution of the enquiry was improper, then at the most the authority ought to have directed fresh enquiry instead of setting aside the termination order. The authority did not direct reinstatement of the employee under the impugned order.

3. The employee has filed writ petition for implementation of the order challenged by the employer setting aside the termination.

4. Mr. Rodge, the learned counsel for the respondent No. 4 submits that the allegations of the employer that the record is in custody of the present employee is erroneous. The present employee is acquitted in the criminal case. According to the employer, the acquittal is on technical ground and that record is with the employee.

5 The order of setting aside the termination of the employee was assailed by the employer in the year 2015, however, as the further steps were not taken at the relevant time, the matter was dismissed for default, and it appears that the same was restored only in the year 2018.

6. The fact remains that the enquiry committee was not properly constituted. The notice was not given to the employee to nominate his nominee in the enquiry committee. In light of that, as the enquiry committee was not properly constituted, naturally the enquiry vitiates. The order to that extent does not suffer from any lacuna.

7. The employer can conduct the enquiry against the employee with a properly constituted enquiry committee for the charges levelled against the employee, in case, the earlier enquiry was technically faulted.

8. In view of the order passed by the authority, the employer shall reinstate the employee Nagorao Bhaurao Chavan within a period of ten (10) days from today, on the post on which he was working on the date of his termination. The period from the date of termination till the reinstatement shall be counted for the purpose of continuity of the service. The employer shall submit the salary bills of the employee from the date of termination till the date of reinstatement to the authority within a period of four (4) weeks. The salary bills of the regular salary shall be submitted regularly.

9. With these observations all the writ petitions stand disposed of.

10. In view of disposal of the Writ Petition, civil application No.11277/2018 does not survive and stands disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane