

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.904 OF 2020

Gajanan Eknath Joshi,
Age : 54 years, Occu. Service,
R/o Ramkrush Nagar, Soygaon,
Tq. Soygaon, Dist. Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary
Department of Rural Development
Mantralaya, Mumbai-32

2. The Chief Executive Officer,
Zilla Parishad,
Aurangabad

3. The Sub-Divisional Engineer, Civil,
Zilla Parishad (Civil), Sub-Division,
Vaijapur, Tq. Vaijapur,
Dist. Aurangabad

4. The Chief Account and Finance Officer,
Zilla Parishad,
Aurangabad

..RESPONDENTS

Mr S.K. Chavan, Advocate for petitioner;
Mr S.G. Sangle, AGP for respondent No.1;
Mr C.D. Biradar, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
S.G. MEHARE, JJ**

DATE : 28th July, 2021

P.C.

1. The petitioner has putforth prayer clauses (B) and (C) as under:-

“(B) To issue writ of certiorari or any other appropriate writ, order or directions in the like nature, the impugned order 14.11.2019 (Exhibit-B),

issued by the Block Development Officer, Panchayat Samiti, Soygaon Tq. Soygaon, Dist. Aurangabad, may kindly be quashed and set aside to the extent of recovery.

- (C) To issue writ of mandamus or any other appropriate writ, order or directions in the like nature, thereby, if any recovery already effected in pursuant to impugned order 14.11.2019 (Exhibit-B), issued by the Block Development Officer, Panchayat Samiti, Soygaon Tq. Soygaon, Dist. Aurangabad, the same shall be refunded to the petitioner within stipulated time period, which this Hon'ble Court may please to direct."

2. We have considered the submissions of the learned Counsel for the respective parties. The petitioner as well as respondent nos.2 to 4 are in unison in stating that the present petitioner is similarly situated as like the petitioner in Writ Petition No.9854 of 2018 decided on 11.1.2019 and in Writ Petition No.3441 of 2019 decided on 24.9.2019, Sopan Apparao Atule. It is also conceded that in the case Sopan Apparao Atule, the Zilla Parishad has preferred a Review Petition (St.) No.9580 of 2020, which has been rejected by the order dated 26.02.2021.

3. Considering the above and the fact situation, we are of the view that the case in hand is squarely covered by the judgment delivered by the Honourable Apex Court in the matter of **State of Punjab Ors. Vs. Rafiq Masih (White Washer), 2015 (4) SCC 334** and **High Court of Punjab & Haryana & Ors. Vs. Jagdev Singh, (2016) 14 SCC 267**.

4. In view of the above, this petition is allowed only to the extent of the impugned order dated 14.11.2019 seeking recovery of amounts from the

petitioner. The impugned order dated 14.11.2019 is, therefore, quashed and set aside. Any recovery of amount effected in pursuance to the impugned order, shall be refunded to the petitioner without interest within eight weeks from today, failing which the said amount would carry interest at the rate of 6% per annum from the date of recovery till the date of payment to the petitioner.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

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