

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

924 WRIT PETITION NO.10827 OF 2018

FARUKH SHAIKH ABDULLA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. N.R. Shaikh, Advocate for the petitioner.
Mr. S.B. Yawalkar, A.G.P. for respondent Nos.1 to 6.

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

DATE : 03-09-2021

ORDER :

1. By this petition, the petitioner has put-forth prayer clauses "B (i)" and "C" as under :

"[B] By way of issuance of writ of mandamus or any other appropriate writ, the impugned order cancelling the "Shiv Chatrapati Rajya Krida Sanghatak/Karyakarta Puraskar" for the year 2014-15, 2015-16 and 2016-17, passed by the Respondent no. 2 may kindly be quashed and set aside and petitioner be awarded the same.

[C] Respondent no.1 to 6 may kindly be directed to pay compensation of Rs. 25 lakhs towards social, mental, physical and legal hardship faced by the petitioner against discriminatory conduct of the Respondents".

2. Considering the order that we intend to pass, we are not dealing with the entire contentions set out by the petitioner. Suffice it to say that the State of Maharashtra has published a Government Resolution dated 08-12-2017 with reference to the "Shiv Chhatrapati Rajya Krida Sanghatak / Karyakarta Puraskar". A specific procedure

has been prescribed for selecting candidates for such State awards.

3. The petitioner had applied for “Shiv Chhatrapati Rajya Krida Sanghatak / Karyakarta Puraskar”. After completing the entire procedure including calling for objections from the public at large, the petitioner was nominated for the said award. The Police Superintendent, Jalgaon has issued a certificate on 31-10-2005 declaring that the petitioner has a clean character and there are no offences registered against him and that there are no reports that he is connected with any Organization which has been subjected to a ban by the Government. A similar certificate was issued by the Superintendent of Police, Jalgaon on 07-08-2015 and 07-11-2017. However, the selection of the petitioner for the said award was suspended after an Organization complained that he has connections with SIMI, a banned Organization. The learned A.G.P. submits that subsequently, by the impugned order dated 17-11-2018, the selection of the petitioner for the said award has been cancelled.

4. We are of the view that the petitioner prays for an investigation. Based on such investigation, this Court would have to assess as to whether the reports against the petitioner form material against him. This would amount to dealing with disputed questions as if this Court could finally give a verdict as regards the purported objectionable characteristics of the petitioner. The fact remains that the State has taken into account some material based on which selection of the petitioner has been cancelled. He has not been confronted with the said material. He was not heard.

5. This Court had passed an order on 09-07-2019 directing the Superintendent of Police, Jalgaon to submit a confidential report about the entries in the concerned Police Station linking the petitioner with a banned Organization. Despite the passage of more than two years, no such confidential report has been placed before us. Instead, a bunch of papers said to be notings in the Station Diary or some record of the M.I.D.C. Police Station Jalgaon, are placed before us. The said file carries a label in Marathi as "M.I.D.C. Police Station Jalgaon, name of register *Hu Ja Ha* (C-2)". The learned A.G.P. frankly states that cancellation of the award was not preceded by any opportunity to the petitioner to put-forth his explanation with reference to the police record which is retained in the M.I.D.C. Police Station, Jalgaon. Though the learned A.G.P. reiterates, on instructions, that the petitioner has a contact with the banned Organization and cancellation of his award is justified, we do not find that the material that is supposedly in the custody of the M.I.D.C. Police Station, Jalgaon, was either confronted to the petitioner or that the petitioner was heard before the impugned order was passed.

6. In view of the above, we are disposing off this petition by keeping the impugned order dated 17-11-2018 in abeyance. Without laying down any precedent, since we have not dealt with the merits of this matter, we are directing respondent No. 1 to hear the petitioner on the purported incriminating material available with the Police Department and after considering his explanation, shall pass

a reasoned order. If the petitioner is aggrieved by the order, he would be at liberty to avail of a remedy as may be permissible in law.

7. This order shall not be cited as a precedent by any party before any Court or Authority and it shall also be noted that we have not expressed any view as to the material that the State Government claims to have as a foundation for cancelling the award for which the petitioner was selected.

8. The learned Registrar (Judicial) of this Court is directed to place the file labelled as "M.I.D.C. Police Station Jalgaon, name of register *Hu Ja Ha* (C-2)" in a sealed envelope so as to return it to the Police Station Officer of M.I.D.C. Police Station, Jalgaon. The learned A.G.P. informs that a person from the said Police Station is present in the Court. The said envelope can be handed over to the said person under identification by the learned A.G.P. by executing necessary papers to evidence acknowledgment the receipt of the documents.

9. It shall also be noted that any document that has been produced by way of a communication or an information in this petition pursuant to our order dated 09-07-2019, no party shall be granted a certified copy of the said document.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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