

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO. 11994 OF 2021 IN
WRIT PETITION NO. 3724 OF 2020**

THE CHIEF ENGINEER AND CHIEF ADMINISTRATOR COMMAND AREA
DEVELOPMENT AUTHORITY
VERSUS
JAGANNATH MARUTI PANDIT AND OTHERS

...
Mr. B.R. Survase, Advocate for applicant
Mr. D.R. Jayabhar, Advocate for respondent no. 1
Mr. S.B. Yawalkar, AGP for respondent nos. 2 to 4
...

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

DATE : 15TH NOVEMBER 2021

PC :

1. This application in writ petition no. 3724 of 2020, has been filed by Shri Vijay Sadashiv Ghogare, Chief Engineer and Chief Administrator, Command Area Development Authority, Aurangabad, District - Aurangabad with the following prayers :

“(B) The order dated 27/9/2021 passed by this Hon’ble Court in Writ Petition No.3724/2020 be recalled.

(C) Pending hearing and final disposal of this application the effect and operation of the order may kindly be stayed in the interest of justice.”

2. Shri Survase, learned Advocate for the appellant has strenuously canvassed the civil application and has made a valiant attempt to convince us that paragraphs 6 and 7 of the order may be

recalled. Paragraphs 6 and 7 of our order dated 27-09-2021 read as under:

“6. Since respondent No. 4 has not rendered any assistance to the Court and has, in fact, virtually prevented this Court from proceeding with the adjudication of this matter after issuance of notice on 09.03.2020 that we direct respondent No.4 to pay costs of Rs.25,000/- from the salary of the Chief Engineer, Labhakshetra Pradhikaran (Command Area Development Authority – CADA), to be deposited in this Court on or before 30.10.2021.

7. The learned advocate for the petitioner submits that Rs.10,000/- may be donated to the Advocates' Association of Bombay High Court at Aurangabad. As such, Registry shall transfer an amount of Rs.10,000/- to the Advocates' Association of Bombay High Court at Aurangabad and the petitioner would be at liberty to withdraw Rs.15,000/- without conditions.”

3. We have considered the strenuous submissions of the learned Advocate for the applicant and have perused the record once again. Notice was issued to the respondents on 9th March, 2020 by this Court. The applicant concedes that Court notice was served upon him, but he had instructed the Executive Engineer to respond to the Court proceedings. It was the said authority, who did not take care of the litigation.

4. We find that this Court again issued notice for final disposal on 16-06-2021, noting that the respondent no. 4, though served, was

not appearing in the Court proceedings. Yet there was no response and the applicant never appeared in the case.

5. On 27-09-2021, we proceeded with the petition since the petitioner had expressed an urgency in the matter and we took into account the conduct of respondent no. 4 of having not appeared in the matter and having rendered no assistance to the Court, despite having been served by two Court notices.

6. In view of the above, we do not find any such ground before us, which would convince us of a circumstance justifying recalling of our order dated 27-09-2021.

7. In view of the above, the civil application is rejected.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

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