

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1171/2021

Tejram s/o Tukaram Mangale .vs. Principal District Judge, Yeotmal and 2 Others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. A. Gaikwad, Advocate for petitioner.
Ms N.Mehta, Assistant Government Pleader for respondent nos.1 & 2.

CORAM : DIPANKAR DATTA, C.J. &
V. M. DESHPANDE, J.

DATE : JULY 22, 2021

The petitioner was a clerk attached to Mr. Deepak Ruprao Hazare, advocate of Babulgaon. The permit issued in his favour to work as such clerk has been cancelled by the Principal District Judge, Yavatmal, by an order dated 20.12.2019. The said order is under challenge in this writ petition.

The impugned order does not record any reason for cancellation of the permit. However, in the course of hearing, we have gathered that an inquiry was initiated against the petitioner, whereupon a report was submitted by the Civil Judge, Junior Division and Judicial Magistrate First Class, Babulgaon on 25.03.2019, holding that the allegations levelled against the petitioner stood substantiated. The parties are ad idem that the adverse findings in such inquiry report triggered the order of cancellation of permit.

The petitioner's primary grievance in this writ petition is that the inquiry report, which constituted an adverse material, was considered by the Principal District Judge, Yavatmal behind his back and that having regard to the law laid down by the Supreme Court in *Managing Director, ECIL, Hyderabad, etc. Vs. B. Karunakar, etc.*, reported in *AIR 1994 SC 1074*, the petitioner was entitled to a copy of the said report.

Ms Mehta, learned Assistant Government Pleader does not dispute that copy of the report was not served on the petitioner before the order of cancellation was made.

It is on this short ground we propose to interfere and set aside the impugned order dated 20.12.2019. It is ordered accordingly.

We direct the Principal District Judge, Yavatmal to forward to the petitioner, a copy of the inquiry report dated 25.03.2019, within three days of receipt of this order. The petitioner shall be given a fortnight's time to reply to the report. Upon consideration of the petitioner's reply, the Principal District Judge, Yavatmal shall proceed to pass a fresh order, in accordance with law, within two weeks of receipt of the said reply. The Principal District Judge, Yavatmal may grant an opportunity of hearing to the petitioner, if he prays for such an opportunity. The order to be passed in terms of this order must be a reasoned one and be communicated to the petitioner within 48 hours after the same is passed.

With the aforesaid directions, the writ petition is disposed of. No costs.

Needless to observe, till such time the Principal District Judge, Yavatmal issues an order, the petitioner shall not be allowed to function as clerk.

JUDGE

CHIEF JUSTICE

kahale