

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

4 WRIT PETITION NO.3072 OF 2019

Archana Vinod Gangane
Age: 33 years, Occu. Business,
R/o. Jijamata Nagar, Tuljapur,
Taluka-Tuljapur, Dist. Osmanabad

.. Petitioner

Versus

1. The Collector,
Osmanabad,
District-Osmanabad

2. Rajabhau Digambar Mane
Age: Major, Occu. Business,
R/o. HUDCO, Tuljapur,
Taluka-Tuljapur,
District-Osmanabad

3. The Chief Officer
Municipal Council,
Tuljapur

.. Respondents

...

Advocate for Petitioner: Mr. Subodh P. Shah
AGP for Respondent No.1: Mr. P. K. Lakhotiya
Advocate for Respondent No.2: Mr. S. G. Kawade

...

**CORAM: SMT. SADHANA S. JADHAV &
S. G. DIGE, JJ.**

DATE: 14th MARCH, 2022

ORAL JUDGMENT (*Per Smt. Sadhana S. Jadhav, J.*):

1. Heard.

2. **Rule.** Rule made returnable forthwith. With the consent of parties, Petition is taken up for final hearing.

3. By this Petition the Petitioner impugns the administrative order passed by the District Collector, Osmanabad on 22.02.2019. The prayer in the Petition is as follows-

"A] The Hon'ble High Court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ and thereby quash and set aside the order dated 22.02.2019 passed by the Collector, Osmanabad bearing No. 2018/Na.pa.pra/Karya-1/Kavi-909 (Annexure-G)"

4. The learned Counsel for the Petitioner submits that the Petitioner was shown as an accused. He was shown as an accused in Crime No.87 of 2017 registered on 19.03.2017, whereas, Crime No.98 of 2017 was registered on 28.03.2017 at Tuljapur Police Station. The application seeking pre-arrest bail filed by the Petitioner was rejected by this Court vide order dated 03.07.2017 by a speaking order. The said order dated 03.07.2017 was impugned by the Petitioner before

the Supreme Court of India and the same was rejected on 11.08.2017 with a direction that 48 hours notice shall be given to the Petitioner for effecting their arrest, in the eventuality it is found necessary to interrogate the Petitioner by custodial interrogation he shall be taken into custody.

5. The District Collector under his order dated 22.02.2019 has observed that as per the enquiry it is found that during the period 28.03.2017 to 13.04.2017, certain vouchers were found to be signed by the Petitioner. It is apparent on the face of the record that during that period the Petitioner was not officiating on his post and was shown as an accused since 19.03.2017 and during that period he could not have signed the vouchers. The Collector was therefore of the opinion that enquiry is necessitated and therefore had directed the President of the Nagar Panchayat, Tuljapur to lodge a criminal prosecution.

6. The learned Counsel for the Petitioner vehemently submits that without holding an enquiry such a finding would show that there was misuse and abuse of power of the Collector. This Court vide order dated 04.03.2019, had directed Respondent No.1 not to take any coercive steps in furtherance to order dated 22.02.2019, till the returnable date. Respondent No.1 and the authority had misconstrued the same as not to proceed with any further steps in that direction.

7. The Petition appears to be pre-mature. What is being sought to be stalled is only an order on the administrative side passed by the Collector. In any case, Respondent No.1 had not taken any action. Hence, in the interest of justice it would be necessary to hold and enquire as to whether the Petitioner had the authority to sign the vouchers after registration of offence and during the pendency of his application seeking pre-arrest bail. The learned Counsel submits that the Petitioner was not absconding. He was very much in town and therefore he had the authority and that

the said order is passed at the behest of the Government. It would not be necessary for us to go into the issue, however the enquiry shall continue.

8. The Petitioner shall appear before the Chief Officer, Municipal Council, Tuljapur on 23.03.2022 and seek time to file his explanation. The Chief Officer, Municipal Council, Tuljapur shall grant appropriate time but not more than four (04) weeks. The enquiry shall be concluded as far as possible by 07.06.2022. With these directions, the Petition would stand disposed of. The interim order dated 04.03.2019 would also come to end.

9. In view of the disposal of the Petition the relief granted earlier does not survive.

10. The Petition is disposed of accordingly. Rule is made absolute in above terms.

[S. G. DIGE, J.]

[SMT. SADHANA S. JADHAV, J.]

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