

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4010 OF 2022

SUNIL LAHU JADHAV AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.P.B.Rakhunde, Advocate for the petitioners.
Mr.P.S.Patil, AGP for State.

(CORAM : RAVINDRA V. GHUGE AND
S.G. DIGE, JJ.)

DATE : APRIL 1, 2022

PER COURT :

1. We have perused the objections as regards Page Nos. 22, 27, 32, 37, 39, 44, 45, 51 and 42. We find that these documents can be read and, therefore, the objections stand over ruled.

2. By this petition, the petitioners have put forth prayer clause "C", "D" and "E" as under :-

"C. The impugned Decision and Order dtd. 12.06.2018 passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No.858/2016 and show cause notice dated 14.03.2022 issued by Deputy Superintendent of Police (Head Quarter), Nanded, may kindly be quashed and

set aside.

D. To remand the matter back to the Ld. Maharashtra Administrative Tribunal Bench at Aurangabad by permitting the petitioners to amend the Original Application No.858/2016 to challenge the Final Inquiry Report.

E. During the pendency of this writ petition, the effect of Show Cause Notice dated 14.03.2022 issued by Deputy Superintendent of Police (Head Quarter), Nanded, may kindly be stayed in the interest of Justice."

3. The petitioners' Advocate has strenuously canvassed the grounds formulated in the petition and contends that the show cause notice dated 14/03/2022 issued by the Deputy Superintendent of Police (Head Quarters, Nanded), is without jurisdiction. It is further submitted that the learned Maharashtra Administrative Tribunal has passed an order on 12/06/2018 disposing off the Original Application No.858/2016 filed by the petitioners. His thrust is on the show cause notice dated 14/03/2022.

4. The order dated 12/06/2018 passed by the learned Tribunal reads as under :-

"1. Heard Shri I.D.Maniyar, learned Advocate holding for Shri.A.T.Jadhavar, learned Advocate for the applicants and Shri

N.U.Yadav, learned Presenting Officer for the respondents.

2. Learned Advocate Shri I.D. Maniyar holding for Shri. A.T.Jadhavar, learned Advocate for the applicants, on instructions, submits that the departmental enquiry is now concluded. The challenge in the present Original Application was to the very initiation of the departmental enquiry.

3. In view of the above, nothing survives in the present Original Application and same is, therefore, disposed of with liberty to file fresh O.A., in case any exigency arises."

5. It is apparent that the show cause notice dated 14/15th March 2022 is in pursuance to the conclusion of the departmental enquiry. It is thus in the nature of a second show cause notice as can be seen from the law laid down by the Hon'ble Apex Court in the matter of **Managing Director, ECIL, Hyderabad and others Vs. B.Karunakar and others [(1993) 4 SCC 727]** keeping in view the 42nd amendment to the Constitution, by which a second show cause notice calling upon an employee to show cause is permissible.

6. Considering the provisions of the Administrative Tribunals Act, the petitioners cannot approach this Court directly. Moreover, it is purely a second show cause notice and if the petitioners contend that

the authority issuing the notice is lacking in jurisdiction, the petitioners can tender a detailed reply and rely on the provisions of Law to make out a case that the notice is without jurisdiction. For the said reasons, we do not find it appropriate to exercise our extra-ordinary powers under Article 226 of the Constitution of India.

7. We are also of the view that the impugned order of the Tribunal is logical and appropriate. It cannot be termed as perverse or erroneous.

8. In view of the above, this petition is dismissed.

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)