

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL WRIT PETITION NO. 274 OF 2018**

Ashok Wamanrao Bhat

... Petitioner

V/s.

The Commissioner,
Solapur Municipal Corporation

... Respondent

Mr. Aumkar Vijaykumar Joshi for Petitioner.

Mr. Samir Kumbhakoni for Respondent.

CORAM : A.S. GADKARI, J.

DATE : 1st April 2022.

PC. :

1. By the present Petition under Article 227 of the Constitution of India, the Petitioner, an employee of Respondent-Corporation, has impugned an Order on preliminary point of enquiry, dated 28th June 2016, passed in Complaint (ULP) No. 06 of 2014 by the learned Member of the Industrial Court, Solapur, holding and declaring that, the domestic enquiry conducted against the Petitioner is legal, fair and proper and in accordance with the principles of natural justice.

2. Heard Mr.Joshi, learned Advocate for the Petitioner and Mr.Kumbhakoni, learned Advocate for the Respondent-Corporation. Perused entire record.

3. Record discloses that, the Respondent-Corporation had issued a Chargesheet dated 18th August 2010 for the charges mentioned therein and

more particularly described in Annexures I & II thereof against the Petitioner. The Gist of the charges levelled against the Petitioner are that, when he was working as 'Group Organizer' of the project namely, Nagari Samuday Development Project of Respondent-Corporation, without verifying proper and relevant documents received from the claimants, submitted it to its Project Director for its approval thereby causing substantial monetary loss to the Respondent-Corporation and the Petitioner has also committed misappropriation of funds of Government. The Enquiry Officer thereafter conducted enquiry and submitted its report dated 23rd August 2013. Respondent-Corporation thereafter issued Order dated 26th December 2013 under Section 56(2) (b) of the Maharashtra Municipal Corporation Act, 1949 and lowered down his basic pay by three steps. Being aggrieved by the said Order imposing penalty upon the Petitioner, the Petitioner preferred aforestated Complaint (ULP) No.06 of 2014 before the Industrial Court at Solapur under Section 28, Schedule IV read with item Nos.5, 9 & 10 of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, "MRTU & PULP Act").

As noted earlier, the Trial Court has held and declared that, the domestic enquiry conducted against the Petitioner is legal, fair and proper and in accordance with the principles of natural justice.

4. Mr.Kulkarni, learned Advocate for the Petitioner submitted that,

the Enquiry Officer while submitting his report dated 23rd August 2013 did not consider the important admissions given by the presenting Officer and has held the Petitioner as only responsible for the alleged misappropriation of funds of Respondent-Corporation. That the Project Director of the said Scheme or other high ranking Officers have not been held responsible in the said alleged misappropriation and it is the Petitioner only who has been made a scapegoat in the entire episode. That, it was the duty of the Petitioner to collect the proposals from the concerned Mahila Bachat Gat on recommendations of the local Corporators and forward it to the Project Director. That, it was the equal duty of the Project Director to re-verify the proposals submitted by the Petitioner. That, it was also the duty of the higher Officers to scrutinize the said proposals before sanctioning the amount to the said Mahila Bachat Gat and without verifying the said proposals, the higher authorities have sanctioned the amount in favour of the said Mahila Bachat Gat, wherein the Petitioner has no role to play. He further submitted that, the amounts have been directly credited in the accounts of the said Mahila Bachat Gat and the Petitioner therefore cannot be held responsible for any misappropriation thereof. He submitted that, the Industrial Court has failed to take into consideration this aspect and therefore the Order passed by the Industrial Court suffers with perversity. He therefore submitted that, the impugned Order may be quashed and set-aside.

5. Per contra Mr.Kumbhakoni, learned Advocate for the Respondent-Corporation vehemently opposed the Petition and submitted that, the impugned Order does not suffer from any illegality or perversity and is within the conformity of settled principles of law. He submitted that, the Industrial Court has taken into consideration all the necessary and relevant aspects of the matter, while passing the impugned Order. He therefore prayed that, the Petition may be dismissed summarily.

6. Perusal of record indicates that, it was the Petitioner at the first instance, being Group Organizer, to receive proposals from the Mahila Bachat Gat, which were constituted for the benefit and upliftment of the women from lower economic strata of the society. The said project i.e. Nagari Samuday Development Project was floated by the Respondent-Corporation under the various schemes propounded by the Government for the benefit and upliftment of the concerned Mahila Bachat Gat. It was the legal duty of the Petitioner to scrutinize each and every proposal received either from the Mahila Bachat Gat or from the concerned Corporator before forwarding it to the Group Organizer, who is a superior Officer in the hierarchy.

7. It is to be noted here that, on the basis of the proposals accepted and scrutinized by the Petitioner, higher Officers have further processed it and the amounts were thereafter released in favour of the concerned Mahila Bachat Gat. It is the specific case of the Respondent-Corporation that,

ineligible Mahila Bachat Gats got amount under the said scheme and infact have been benefited, however needy Gats, which ought to have been beneficiary are deprived of the same, due to the alleged misconduct and/or irregularity committed by the Petitioner. Perusal of the inquiry report would indicate that, the Enquiry Officer has taken into consideration the submissions of both the parties, scrutinized the evidence on record in its proper perspective and has reached to the conclusion as recorded in his enquiry report. The Trial Court after assessing the entire material available on record and after taking into consideration the settled principles of law has recorded its subjective satisfaction and has reached to the conclusion that, the domestic enquiry conducted against the Petitioner is legal, fair and proper and in accordance with the principles of natural justice. There is also an allegation of misappropriation of Government funds levelled against the Petitioner. This Court *prima-facie* finds that, the allegations levelled against the Petitioner are serious in nature.

8. After perusing entire record, this Court is of the considered view that, the Trial Court has not committed any error either in law or on facts while passing the impugned Order. There is no irregularity or perversity found after perusing the impugned Order.

Petition being *dehors* of merits is accordingly dismissed.

[A.S. GADKARI, J.]