

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

WRIT PETITION NO.1007/2020

Ashish S/o Pralhad Bhagat,
aged about 25 Yrs., Occ. Nil,
R/o Bhiwapur Tola, Post Chikhli,
Tah. Tiroda, Dist. Gondia.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Principal Secretary,
Irrigation Department, Mantralaya,
Mumbai - 32.
2. Superintending Engineer and
Administrator, Command Area
Development Authority, Wing-A,
Vainganga Nagar, Ajni,
Nagpur - 440 003.
3. Superintending Engineer,
Bhandara Irrigation Circle,
Bhandara (Girola).
4. Sectional Engineer, Sangrampur,
Irrigation Branch, Ekodi, Tah. Gondia,
Dist. Gondia.
5. Sachin S/o Deorao Patle,
aged Major, Occ. Service,
R/o Chikhli, Tah. Tiroda,
Dist. Gondia.

... Respondents

Mr. Prashant Thakre, Advocate for the Petitioner.
Mr. N.S. Rao, Assistant Government Pleader for Respondent
No.1.
Mr. T.M. Zaheer, Advocate for respondent Nos.3 and 4.

**CORAM : SUNIL B. SHUKRE
AND ANIL L. PANSARE, JJ.
DATE : 18.10.2022**

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. Learned counsel for respondent Nos.3 and 4 submit that the impugned order has been passed only for the reason that respondent Nos.2, 3 and 4 have felt as bound by the orders of the Lokayukta. If this is so, respondent Nos.2, 3 and 4 still nurture a feeling that the orders passed by the Lokayukta are not correct and are not in accordance with law. Learned counsel for

respondent Nos.3 and 4 accepts inference so drawn by us and in our view, rightly so. The reason being that whatever orders of Lokayukta may be there, they are only in the nature of recommendations and, therefore, before accepting those recommendations, the competent authority, in the present case, the appointing authority i.e. respondent No.2, should have applied its mind to those recommendations and only after being satisfied about their correctness, he should have taken a decision to accept those recommendations and accordingly cancelled the appointment of the petitioner on a class-III post on compassionate ground. This exercise, obviously, has not been done by respondent Nos.2, 3 and 4 and, therefore, the impugned orders, in our considered view, suffer from the vice of non-application of mind. The impugned orders, therefore, deserve to be quashed and set aside.

3. The petition is **allowed**. The impugned orders are hereby quashed and set aside and the matter is remanded back to

respondent No.3 for its fresh consideration and decision in accordance with law.

4. Rule is made absolute in the above terms. No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE, J.)

Tambaskar.

Signed By: NILESH VILASRAO
TAMBASKAR

Private Secretary
Date: 19.10.2022 19:12