

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

WRIT PETITION NO. 4877 OF 2021

Arvind S/o Bahadursingh Chavan

...Versus...

State of Maharashtra, through its Principal Secretary, Urban Development Department,
Mantralaya, Mumbai and others

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

Court's or Judge's orders

Shri N.D. Thombre, Advocate for petitioner
Ms M.H. Deshmukh, A.G.P for respondent No.1/State
Shri S.D. Zoting, Advocate for respondent Nos. 2 & 3

CORAM : SUNIL B. SHUKRE & SMT. M.S. JAWALKAR, JJ.

DATE : 19/04/2022

Heard.

2. The petition has questioned the order of suspension and has also prayed for setting aside the enquiry report dated 30/08/2021.

3. As regards the suspension order, now as a subsequent development, it has come on record that the suspension order has been revoked and the petitioner is reinstated in service.

4. About the second relief claimed in this petition regarding quashing and setting aside of the enquiry report

dated 30/08/2021, we find that the report dated 30/08/2021 is not actually an “Enquiry Report” but “Spot Inspection Report”. That being so, no prayer for quashing and setting aside such a report can be entertained by this Court unless it is demonstrated by the petitioner that the report is in violation of some procedural requirements or some statutory rule or some provision of law which must be followed in carrying out the spot inspection. If there are any defects or doubts in such report, an employee against whom the report goes is always at liberty to question the same in an appropriate enquiry.

5. In the present case, departmental enquiry has been initiated against the petitioner and the charge-sheet has also been issued to the petitioner. The petitioner has also filed his reply.

6. The learned Counsel for the petitioner submits this spot inspection report is against provisions made in paragraphs 1, 2, 3A and 5 of Government Resolution dated 15/11/2011. None of these paragraphs relate to any procedure which must be followed while inspecting the works done by paying spot visits. The learned Counsel for the petitioner relies upon, in particular, paragraph 2 of the Government Resolution dated 15/11/2011. This paragraph is about the officials and the persons who should be held

individually responsible for low quality work and according to learned Counsel for the petitioner, the petitioner is not the person who is mentioned in theses paragraphs.

We are of the view that this is nothing but a defence of the petitioner which he can always take at an appropriate time during the course of enquiry.

7. The learned Counsel for the respondents submits that the petitioner would be at liberty to question the legality and correctness of the spot inspection report dated 30/08/2021 in the departmental enquiry proceedings which are presently pending against the petitioner.

8. In view of above we find that nothing survives in this petition and the petition is accordingly disposed of keeping all questions open and with liberty to the petitioner to rely upon the said Government Resolution dated 15/11/2011. No costs.

(JUDGE)

(JUDGE)

Jayashree..