

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO. 2207 OF 2023

SUMANBAI S/O RAMBHAU MAGAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Shrikant G. Kawade
AGP for Respondent No.1-State : Mr. P. K. Lakhotia
.....

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.**

DATED : 23 MARCH 2023

PER COURT :-

1. The petitioner Sarpanch of the respondent no.5 Grampanchayat has questioned the enquiry report dated 10.01.2023, the impugned communication dated 11.01.2023 so also the letter issued by the Block Development Officer Class-1 dated 24.01.2023.

2. Vide the aforesaid impugned communications, the petitioner was directed to deposit 50% of the amount recoverable, viz. Rs.4,09,412/- in the Grampanchayat. The contentions of the counsel for the petitioner are that the enquiry report is based on a complaint lodged by the Gramsevak. However, the Gramsevak has withdrawn the complaint as could be noticed from the communications dated

31.10.2022 and 02.01.2023. According to him, the Gramsevak, who was suspended, has specifically stated that he is withdrawing the complaint and there are receipts of all the material which was purchased, so also the work was duly executed. The learned counsel as such would urge that the petitioner cannot be fastened with the financial liability as has been done by the respondent authorities.

3. The learned AGP would oppose the aforesaid prayer.

4. The preliminary enquiry was conducted by the Block Development Officer with the help of Extension Officer of the Panchayat Samiti. Subsequent thereto, having found substance in the said preliminary enquiry, the Chief Executive Officer, along with the other officers, carried out physical verification and noticed in the impugned enquiry report dated 10.01.2023 that not only the articles which were purchased were not found during physical verification, but the other articles were purchased at much exaggerated cost.

5. Because of the same, the authority has recorded the finding that an amount of Rs.4,09,412/-, i.e. 50% of the total recoverable amount, is recoverable from the petitioner. While doing so, the authority has considered the estimated value of the articles which

were purchased and proceeded to pass the order impugned, thereby directing recovery against the petitioner.

6. In the aforesaid background, what can be noticed is, that the enquiry committee has physically verified the articles which were purchased by the committee consisting the petitioner and the Gramsevak, for which the amount was already released towards consideration after sanction of the same by the Block Development Officer, Class-1. Even if the Block Development Officer has sanctioned the release of the amount, that by itself, will not lead to drawing a conclusion that the said authority was a party to the purchase/procurement of the articles. At least, no such material is brought on record by the petitioner to demonstrate that the receipts by which the articles were purchased, were approved by the Block Development Officer and the Block Development Officer at the time of release of the amount, has physically verified the receipts of the articles in the Grampanchayat.

7. The enquiry committee, after granting opportunity of hearing to the petitioner, has also considered the estimated cost of the articles which were purchased by the Grampanchayat. As such, it cannot be said that the petitioner was put to prejudice at the time of drawing

the enquiry report, thereby depreciating the value of the articles purchased by the petitioner. As the enquiry report is based on the estimated value of the articles purchased by the petitioner for the Grampanchayat and as an opportunity of hearing was also offered to the petitioner, the order impugned cannot be faulted with or said to be arbitrary or illegal. That being so, the petition fails and the same is dismissed accordingly.

[S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE, J.]

vre