

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO.12684 OF 2023

Achut Madhavrao Kulkarni ...Petitioner

Versus

The State of Maharashtra and Others ...Respondents

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Advocate for Petitioner : Mrs. M. A. Kulkarni

AGP for Respondents-State : Mrs. R. P. Gour

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**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ.
& ARUN R. PEDNEKER, J.**

DATE : 13th OCTOBER, 2023.

P.C. :

1. Heard the learned Counsel representing the petitioner and learned AGP representing the respondent No.1 - The State of Maharashtra.

2. By filing this petition, a prayer has been made to expunge certain offending remarks made against the petitioner, who is a practicing Advocate, in the order dated 04/03/2021, passed by the President, Maharashtra Revenue Tribunal, Mumbai sitting at Aurangabad, in Revision

No.18/B/2010/A (Prabhawati Ambadas Dandwate Vs. Saraswati Bhuwan Shikshan Sanstha) connected with Revision No.36/B/2016/A, (Rukminibai w/o Krishnaji Dandwate Vs. Saraswati Bhuwan Shikshan Sanstha).

3. The submission of the learned Counsel for the petitioner is that without there being any material or evidence on record the President of the Tribunal has unnecessarily recorded in the order dated 04/03/2021 that the General Power of Attorney - Shri. Bakshi through whom the aforesaid cases were filed had asked the President not to pass orders in the matters as he had lost faith and such approach of General Power of Attorney - Shri Bakshi, needed to be condemned and discarded, "naturally under legal advice of advocate."

4. According to the learned Counsel representing the petitioner the phrase, "naturally under legal advice of advocate" occurring in the last paragraph of page 2 of the said order dated 04/03/2021, is offending and has been mentioned without giving opportunity of hearing to the petitioner in the matter who was appearing as an Advocate.

5. The learned Advocate for the petitioner further stated that the above phrase has been mentioned though there was nothing on record which could enable the President of the Tribunal to reach at the conclusion that the General Power of Attorney - Shri Bakshi conducted himself on the legal advise of the Advocate i/b the petitioner.

6. Having considered the matter at hand and having heard the learned Counsel representing the petitioner what we find is that even from a perusal of the order dated 04/03/2021 passed by the President of the Tribunal it does not transpire that there has been any misconduct on the part of the petitioner. As a matter of fact, the president of the Tribunal himself has recorded that it is the General Power of Attorney - Shri Bakshi. who had stated before the Tribunal that he did not have any faith, and as such, the offending phrase in the order ought not to have been mentioned.

7. To conclude that such statement by the General Power of Attoeny - Shri Bakshi was made on the legal advise

of the petitioner, who in the matter was only a Counsel of one of the parties, in our opinion, does not appear to be based on any material on record. Further, before making such a remark, which of course is offending, the petitioner was entitled to be given opportunity of hearing and explaining his point of view.

8. For the reasons as aforesaid, we allow the writ petition and direct that the phrase, "naturally under legal advice of advocate" which occurs in the last paragraph of internal page 2 of the order dated 04/03/2021, passed by the President, Maharashtra Revenue Tribunal, Mumbai sitting at Aurangabad, in aforesaid mentioned cases, shall stand expunged. We also order that in the third paragraph occurring at page 2 of the order dated 04/03/2021, the word "Advocate" appearing in the 4th line shall also stand expunged.

(ARUN R. PEDNEKER, J.)

(CHIEF JUSTICE)