

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 5983 OF 2023

The State of Maharashtra. ... Petitioner.

V/s.

Smt.Trupti Kolte. ... Respondent.

WITH
INTERIM APPLICATION NO. 4297 OF 2023

Kiran Magan Suravase. ... Applicant

In the matter between

The State of Maharashtra. ... Petitioner.

V/s.

Smt.Trupti Kolte. ... Respondent.

Mr.A.Y.Sakhare, Senior Advocate with Mr.N.K.Rajpurohit, AGP
for the Petitioner- State.

Mr.Ashutosh Kulkarni i/b. Ms.Akanksha Helaskar
for the Respondent.

Mr.Y.S.Jahagirdar, Senior Advocate i/b. Mr.Om.M.Lonkar
for the Applicant in IA-4297/23.

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CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.

DATE : 4 October 2023.

P.C. :

Heard the learned counsel for the parties.

2. The arguable questions are raised.

3. Rule.

4. The Respondents waive service.

5. The operative portion of the impugned order passed by the Maharashtra Administrative Tribunal reads thus:

“(A) The Original Application is allowed.

(B) Suspension order dated 09.12.2022 is quashed and set aside.

(C) Respondents are directed to reinstate the Applicant immediately on a post she was holding at the time of suspension within two weeks from today with all consequential service benefits.

(D) No order as to costs.”

6. By interim order dated 2 February 2023, the Division Bench after hearing the parties had stayed clause (c) of the operative part of the impugned order passed by the Tribunal which is culled out above. As regards clause (B) of the operative part of the impugned order is concerned, the State Government by order dated 4 May 2023 has revoked the suspension of the Respondent and by order dated 8 May 2023 Respondent No.1 is posted in Maharashtra State Road Development Corporation on deputation.

7. The Respondent contends that clause (c) of the operative portion of the order has directed the Petitioner- State to appoint Respondent on the same post which would mean the post of Tahasildar, Haveli which the Respondent was holding before placed under suspension, and the same is not legal and permissible. We do not find any merit in this interpretation. The Tribunal has not used the phrase “place” but used “post”. There is no specific reason in the impugned order why the Respondent to be put on the same place. This is more particular so in view of the decision of the Full Bench of Madhya Pradesh High Court in the case of *Asif Mohd. Khan v. State of M.P.*¹; wherein the Full Bench has observed that lien can only be on the post and not on the place and, therefore, it is not open for the employee to contend that if the order of suspension is set aside, the lien would be on the same place.

8. In light of this legal position, the apprehension expressed by the Petitioner- State that it is mandated to place the Respondent on the same post and place, that is Tahasildar, Haveli is unwarranted as that is not the purport of clause (c) of the impugned order.

9. In light of this clarification and interpretation of clause (c) of the operative part of the impugned order, the interim application taken out for intervention does not survive and is accordingly disposed of.

¹ 2015(4) MPLJ 406

10. The learned counsel for the Respondent makes a grievance that the Respondent is not placed on the equivalent post. It is open to the Respondent to agitate this grievance by taking out appropriate proceeding.

11. Needless to state that pendency of this petition will not preclude the State to proceed ahead with the disciplinary enquiry against the Respondent on merits, which will proceed uninfluenced by the observations in the impugned order.

12. The position which exists as on today and clarified by us as above would continue as interim order in this petition.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)