

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

CRIMINAL WRIT PETITION NO. 941 OF 2019

Shri Avin s/o Rambhau Dolkar, aged
about 36 years, Occupation – Legal
Practitioner, R/o Heti, Tahsil – Korpana,
District – Chandrapur (Maharashtra
State)

... PETITIONER.

VERSUS

1. Chief Secretary, Revenue and Forest
Department, Mantralaya, Mumbai
(Maharashtra State)
2. Additional Secretary, Home
Department, 2nd floor, Madam Kama
Road, Hutatma Rajguru Square,
Mantralaya, Mumbai – 400 032
(Maharashtra State)
3. Divisional Commissioner, Nagpur
Division, Nagpur (Maharashtra
State)
4. Director General of Anti Corruption
Bureau, Mumbai (Maharashtra
State)
5. Police Inspector, Anti Corruption
Bureau, Wardha, Tahsil and district
Wardha (Maharashtra State)
6. Police Inspector, Anti Corruption

Bureau, Chandrapur, Tahsil and district Chandrapur (Maharashtra State)

7. Police Inspector, Anti Corruption Bureau, Nagpur, Tahsil and district – Nagpur (Maharashtra State)
8. Shri Sameer s/o Premveer Mane, aged about 38 years, Occupation Service, resident of Tahsil Office, Kamala, Tahsil Kamala, District Solapur.

... RESPONDENTS

Shri Akhtar Nawab Ansari, Advocate for the petitioner.
 Shri Thakre, A.P.P for the respondent/State.
 Shri N.B. Javade, Advocate for respondent no.8.

CORAM : VINAY JOSHI AND BHARAT P. DESHPANDE, JJ.
DATED : 13/03/2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith. Heard finally by consent of learned Counsel appearing for the respective parties.

2. The petitioner has challenged the order dated 29.03.2019 passed by the Additional Session Judge, Chandrapur accepting the

closure report as well as sought directions to recall the decision of the respondent no.3 Divisional Commissioner, Nagpur Division, Nagpur dated 04.12.2015 refusing to grant sanction and subsequent related communications.

3. It is the petitioner's case that on 25.04.2014, he has made a complaint to the respondent no. 5 Police Inspector, Anti Corruption Bureau, Wardha about the alleged demand of bribe for taking relevant mutation entry by respondent no.8, who was working as the Revenue Officer. In pursuance of said complaint, the Anti Corruption Bureau arranged trap, which was turned to be successful in which respondent no.8 was allegedly found accepting bribe of Rs.5,000/-. After completion of investigation, papers were forwarded by respondent no.4 Director General of Anti Corruption Bureau, Mumbai to respondent no.2 Additional Secretary, Home Department, Mantralaya for sanction to prosecute in terms of Section 19 of the Prevention of Corruption Act, 1988. The said sanction was refused vide communication dated 04.12.2015.

After receipt of said communication, the spectrographic report was received on 04.02.2016 stating that audio samples matches and voice of complainant and respondent no. 8 has been identified to

be similar. On that basis, again respondent no.4 submitted a proposal to the respondent no. 2 for reconsidering refusal of sanction on account of new material, which emerges after refusal of sanction. In response, respondent no.2 has communicated to respondent no.4 that as per Circular if there is new material, a fresh proposal can be sent for sanction. However, respondent no.4 has misinterpreted the letter and communicated to respondent no.7 that the sanction has been once again refused.

4. It is apparent that the very purport of the letter issued by respondent no. 2 dated 26-29.07.2017 was to re-forward the proposal on the basis of new material but it did not happen. Obviously, on the basis of new material, the authority has to reconsider the aspect of sanction in accordance with law. In view of that the impugned communication as well as order of closure does not sustain in the eyes of law.

5. In the circumstance, the petition is allowed. We hereby quashed and set aside the order of closure acceptance report dated 29.03.2019 passed by the Additional Sessions Judge, Chandrapur as well the relevant communication by which the sanction was refused. We hereby direct respondent no.4 to re-forward the papers with

additional material to the Sanctioning Authority, who in turn shall take appropriate decision in accordance with law.

6. Since the incident dates back to 10 years, the Authority shall forward the proposal within eight weeks from today and possibly the Sanctioning Authority shall take appropriate decision within eight weeks, thereafter.

7. Rule is made absolute in above terms. No order as to costs.

(BHARAT P. DESHPANDE, J.)

(VINAY JOSHI, J.)

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