



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 116 OF 2024

Pandurang Shankarrao Borgaonkar .. Applicant

versus

Ujwalabai Vijay Chavan & others .. Respondents

Mr. S. B. Deshpande, Senior Counsel instructed by Mr. C. B. Chaudhari, Advocate or the Applicant.

Mr. V. M. Kagne, AGP for the State.

Mr. V. B. Dhage, Advocate for Petitioner in Writ Petition.

Mr. S. S. Deve, Advocate for Respondent No. 3 in Writ Petition.

**CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.**

DATE : 1st AUGUST, 2024.

PER COURT (R. M. Joshi, J.) :

1. Applicant seeks a review of the order dated 08.04.2024 passed by this Court in Writ Petition No. 11834/2019.

2. It is the case of the Applicant that during the relevant period he was working as Competent Authority and Land Acquisition Officer at Kandhar. He has passed order dated 25.02.2019 disbursing amount of compensation to Respondent Nos. 5 to 7 on

account of acquisition of land for the purpose of National Highway. It is his contention that without making him party in Writ Petition No. 11834/2019, impugned order came to be passed against him. He seeks review of the said order on the ground of not being heard before passing of the order and for violation of principles of natural justice. This is the only ground canvassed before us.

3. Learned Senior Counsel appearing on behalf of the Applicant submits that without going into the correctness of the order passed by this Court, the same has been challenged on the ground that the Applicant not being heard before passing of the said order. It is his contention that since the Applicant was acting as a quasi-judicial authority, no action is to be taken against him for passing the order. It is further argued that since this Court has not heard the Applicant before passing of the said order, it is a fit case for review under Section 114 of Code of Civil Procedure. In order to support his submission, he placed reliance on judgment of the Hon'ble Supreme Court in case of Murali Sundaram vs. Jothibai Kannan and others, **MANU/SC/0163/2023**.

4. At the outset, it needs to be recorded that this Court has not passed any order concluding that the Applicant has committed perjury or has been convicted him for the same. This Court, after taking into consideration the material evidence placed on record, more particularly affidavit filed by Respondent Nos. 4 to 6, has found that on the basis of a patently false statement, the order of disbursement of amount of compensation, was passed, that too behind the back of the Petitioner. This Court has also taken into consideration the order passed by the predecessors of the Applicant refusing to disburse the amount of compensation to the Respondents concerned. Needless to say that if any Court notices any apparent illegality or a possible case of perjury, it cannot turn blind eye towards the same.

5. The question that needs to be considered by this Court is as to whether a person against whom there is apparent reason for initiating proceeding for perjury, can be heard before any criminal Court takes cognizance of such complaint or any First Information Report being filed against him. At this stage, it would be relevant to refer to judgment of the **Hon'ble Supreme Court** in case of **Union of**

India and another vs. W. N. Chadha, 1993 Supp.(4) Supreme Court Cases 260 wherein it is observed thus :-

“The rule of audi alteram partem is a rule of justice and its application is excluded where the rule will itself lead to injustice. There is exclusion of the application of audi alteram partem rule to cases where nothing unfair can be inferred by not affording an opportunity to present and meet a case. This rule cannot be applied to defeat the ends of justice or to make the law “lifeless, absurd, stultifying and self-defeating or plainly contrary to the common sense of the situation” and this rule may be jettisoned in very exceptional circumstances where compulsive necessity so demands.”

6. It is thus clear from the judgment of the Hon'ble Supreme Court that in case any offence is to be registered against any individual, he cannot be and need not be heard before the same. The process of law that would be initiated by our order, is aimed at investigating the issue and the Applicant's rights are well protected in the investigation process. The request by the Applicant, therefore, is pre-mature. It is open for him to put forth his defence in any such proceeding and all his contentions would be open, if such proceeding is initiated against him.

8. In view of the above discussion, no error apparent on the face of record or the order, is noticed in the impugned order to cause review thereof.

9. This Review Application is, therefore, rejected.

(R. M. JOSHI)
JUDGE

dyb

(RAVINDRA V. GHUGE)
JUDGE