



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 3681 of 2024

Adv.Ghanshayam Rajendra Dhole

Versus

District Collector, Amravati Division, Amravati

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Ghanshyam Dhole, in person

Mrs. Mrunal Naik, AGP for the respondent/State.

CORAM : N.R.BORKAR, J.

DATED : 3rd OCTOBER, 2024.

This petition takes exception to the order dated 7th June, 2024 passed by the respondent District Collector, Amravati.

2. By order dated 26th September, 2022, the petitioner was appointed as Special Assistant Public Prosecutor. The complaint was made questioning the appointment of the petitioner on the ground that there is a criminal case pending against him.

3. A show cause notice was thus issued to the petitioner. He was called upon to show cause as to why his appointment should not be cancelled. As no reply was filed within the period mentioned in the show cause notice, by order dated 28th June, 2023 the appointment of petitioner was cancelled. The said order was challenged before this Court. This Court by order dated 17th April, 2024 in Writ Petition No. 5867 of 2023 directed the respondent to pass fresh order after hearing the petitioner.

4. Pursuant to the above direction the respondent has passed the fresh order thereby recalling the recommendation and cancelling the appointment of the petitioner. This order is impugned in this petition.

5. I have heard the petitioner in person and learned Assistant Government Pleader for the respondent.

6. The fact that the petitioner is one of the accused in Crime No. 264 of 2021 registered by

Malkapur Gramin Police Station for the offences punishable under Sections 294, 323, 506 read with Section 34 of Indian Penal Code is not in dispute. Admittedly, the said fact was disclosed by the petitioner in his application.

7. At this stage, it would be apposite to refer to the judgment of the Hon'ble Supreme Court in *Pawan Kumar Vs. State of Haryana and another*, reported in *AIR 1996 SC 3300*.

8. The appellant in the said case was appointed as a Field Worker on *ad hoc* basis, in the office of the Chief Medical Officer, General Hospital Bhiwani, Haryana. While in service, he was convicted for the offence punishable under Section 294 of the Indian Penal Code. When steps were afoot to regularise his services, papers were moved to the office of Superintendent of Police to verify character and antecedents of the appellant. The office of Superintendent of Police reported back the factum of

conviction of the appellant under Section 294 of the Indian Penal Code. The services of the appellant were then terminated. While dealing with the issue of termination of services on the ground of conviction for petty offences, the Hon'ble Supreme Court has observed thus:

“14. Before concluding this judgment we hereby draw attention of the Parliament to step in and perceive the large many cases which per law and public policy are tried summarily, involving thousands and thousands of people through out the country appearing before summary Courts and paying small amounts of fine, more often than not, as a measure of plea-bargaining. Foremost among them being traffic, municipal and other petty offences under the India; Penal Code, mostly committed by the young and/or the inexperienced. The cruel result of a conviction of that kind and a fine of payment of a paltry sum on plea-bargaining is the end of the career, future or present, as the case may be, of that young and/or in experienced person, putting a blast to his life and his dreams. Life is too precious to be staked over a petty incident like this. Immediate remedial measures are therefore necessary in raising the toleration limits with regard to petty offences especially when tried summarily. Provision need be made that punishment of fine upto a certain limit, say upto Rs.2000/- or so, on a summary/ordinary conviction shall not be treated as conviction at all for any purpose and all the more for

entry into and retention in Government service.
This can brook no delay, whatsoever.”

9. The case of the petitioner stands on much better footing. The trial against the petitioner is still pending. A person is to be presumed to be innocent till proved otherwise upon a trial conducted as per the law. Mere pendency of a criminal case for pretty offences against the candidate can never be a ground for denying the rights of such a candidate to participate in the process and to secure a public appointment.

10. In view of the above the order impugned cannot be allowed to stand and the same is quashed and set aside.

11. The writ petition is allowed of in aforesaid terms.

[N.R.BORKAR, J.]