



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

Writ Petition No.5876 of 2023

GHANSHYAM S/O RAJENDRA DHOLE

VS

**STATE OF MAHARASHTRA, THROUGH MINISTRY OF HOME, MUMBAI
AND OTHERS**

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

Court's or Judge's Order

Shri R.R. Vyas, Advocate for the Petitioner/s

Shri P.P. Pendke, AGP for the Respondent Nos.1 to 3/State

CORAM : ANIL S. KILOR, J.

DATE : 17.04.2024

1. Heard.

2. The Government of Maharashtra issued a public notice for appointment of Special Assistant Public Prosecutor as per Section 25(3) of the Code of Criminal Procedure. The petitioner applied for the same and got appointed on the said post vide order dated 26.09.2022. However, because of the complaint made by a member of the parliament, alleging that there is a criminal case pending against the petitioner and since there was a condition in the proclamation that, there shall not be any criminal case pending or any conviction against the candidate, a show cause notice was issued to the petitioner by granting three days time.

3. Since, the petitioner found that the time of three days is not sufficient, he requested for grant of further time of 15 days, which was granted to the petitioner till 26.06.2023 vide letter dated 19.06.2023 issued by the Collector.

4. However, the petitioner though submitted his reply, it was delayed by one day and therefore, the Collector passed the impugned order dated 28.06.2023 by cancelling the appointment of the petitioner as Special Assistant Public Prosecutor and did not take into consideration the reply of the petitioner. Hence, this petition.

5. After going through record, I am of the opinion that in this case the reply of the petitioner needs to be considered by the Collector before taking any decision in respect of cancellation of the appointment of the petitioner as Special Assistant Public Prosecutor for the reason that, though there was a condition in the proclamation that a candidate shall not have any pending criminal case or he shall not be convicted, in the application submitted by the petitioner, he disclosed the fact of pending case and gave details of such criminal case. Thus, after considering the said fact, it appears that, the appointment was made.

6. In the circumstances, I am of the opinion that the petitioner is entitled to get one more opportunity to put his defence before the Collector, which was not considered by the Collector, and take a final decision. Accordingly, I pass the following order:

- (i) The writ petition is **partly allowed**.
- (ii) The order dated 28.06.2023 issued by the Collector, Amravati, is hereby quashed and set aside.
- (iii) The petitioner is permitted to submit his reply once again, by appearing before the Collector, Amravati on **24.04.2024 at 12.00 noon**. Thereupon, after hearing, the

Collector, Amravati may pass the final order, in accordance with law.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]