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

CRIMINAL WRIT PETITION NO.574/2024

Shyam Jagdeo Ambulkar .VS. State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. S. B. Tiwari, Advocate for petitioner.
Mr. S. S. Doifode, A.P.P. for respondent Nos.1 to 3.
Mr. S. A. Chaudhari, Advocate for respondent No.4.

CORAM : ANIL L. PANSARE AND SIDDHESHWAR S. THOMBRE, JJ.
DATE : SEPTEMBER 29, 2025

Respondent No. 4 has tendered across the bar, copy of reply. Taken on record. The reply has been filed in response to order dated 06.08.2025, which reads thus:

"Heard.

02. The petitioner, Divisional Accounts Officer seeks to quash the order of sanction granted by respondent No.3 to prosecute the petitioner under the provisions of the Prevention of Corruption Act, 1988. The learned Counsel for the petitioner submits that respondent No.3 had initially and vide order dated 26/11/2018 refused to grant sanction for the following reasons.

> *"As stated I the foregoing paragraphs, the charges above relate to deviations in procedure and I cannot attribute them directly to Shri A.J. Ambulkar and he had not joined the Division at the time of performance of the activities related to the lapses. Further, some of the related activities were performed in offices other than the Division where Shri Ambulkar was posted. If the charges are to be stretched to a maximum level of consideration, and a conclusion arrived at that the charged officer could have recorded or communicated the deviations from the procedure, the fact as to whether this was possible or whether he had the opportunity to do so should have been*

> *established or brought out in the charge sheet. This has not been done. Taking all these aspects involved into consideration, I find no prima facie evidence to establish that charges justifying a criminal offence on the part of the charged officer, has been brought out in the charge sheet. I, therefore, decline to grant sanction for prosecuting Shri S.J. Ambulkar in the Court of Law for the above referred charges."*

03. As could be seen, the Sanctioning Authority found that the charges levelled against the petitioner relates to deviation in procedure. The Sanctioning Authority then notes that the petitioner joined the Division subsequent to conclusion of the procedure. Thus, the Sanctioning Authority noted that the petitioner has no nexus with the lapses that occurred prior to his joining. It is further noted that the related activities were performed in the Offices other than the Division, where the petitioner was posted. Accordingly, the sanction was refused.

04. Respondent No.2-Investigating Officer has then requested respondent No.3 to reconsider granting sanction to prosecute the petitioner. Accordingly, respondent No.3 by revisiting the earlier order granted sanction and while doing so, has observed thus :

> *"On re-examination of the matter, I feel that proper examination/investigation of these matters is a subject within the purview of law (Judiciary/ACB/Police). Hence, this matter is to be appropriately examined and concluded by the law. Hence, I give my unconditional sanction for prosecution of Shri Shyam Jagdeo Ambulkar, Sr. Divisional Accounts Officer in the charges levelled against him in CR No.203/2017 u/s 13(1)(c)(d), 13(2) of Prevention of Corruption Act, 1988."*

05. Thus, the Sanctioning Authority in the second round formed an opinion that for proper examination/investigation of the matter, which is within the purview of law, sanction should be granted.

Respondent No.3 has, however, in the body of the sanction order reiterated certain facts, which indicate that there is absolutely no material against the petitioner to prosecute him under the provisions of the Prevention of Corruption Act. The relevant findings are in paragraphs 3 and 4 of the order, which read thus:

> *"3. As regards the charge that the qualified contractor M/s. Srinivasa Construction Co. and M/s. Balarami Reddy & Co. (JV) was not registered as a joint venture firm, this is an issue relating to pre-qualification of the bidders. The pre-qualification of bidders is evaluated and decided on the basis of the specific parameters, by the Tender Evaluation Committee appointed by the Public Works Department, Government of Maharashtra, vide its circular dated 05/12/2000. This Committee consists of the Chief Engineer, Superintending Engineer(s), and the Executive Engineer of the concerned Division. The Divisional Accounts Officer is not a member of the Tender Evaluation Committee. The allotment of marks, relaxation of the evaluation criteria and the ultimate decision of the evaluation are exclusively matter to be considered and decided by the Evaluation Committee and the Divisional Accountant has no role in this process. As per Para 30 of Appendix 12 of Maharashtra Public Works Account Manual, the officer accepting the tenders should satisfy himself that all the requirements are attended to. He should also see that there is no departure from rules governing acceptance of tender. The tenders are received and opened in the Office of the Superintending Engineer. The laid down duties of Divisional Accountants under the rules do not require him to verify the credibility and authenticity of the tender documents submitted by the bidders as he is neither a tender opening authority nor a Committee member in the Tender Evalution Committee appointed by the Government of*

> *Maharashtra. Further, in this case, the process of pre-qualification of contractors was completed before 10/10/2006 i.e. prior to Shri Ambulkar's assuming charge in the Division on 26/10/2006 A.N.*
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> *4. As regards the charge that while updating the tender cost, items which were out of rules were applied and the updated cost of the tender was increased, it is noted that the Divisional Accountant has no administrative or financial powers. Both preparation and revision of estimate are purely technical matters and are beyond the scope of duties of the Divisional Accountant. The Administrative and Financial powers for preparation of original estimate and revision of estimates are delegated to Engineering Officers as per para 13 of Appendix-42 of Maharashtra Public Works Account Manual. The Divisional Accountant has no role in these technical matters. The three member expert Technical Committee constituted by the Government of Maharashtra to inquire into the allegations in its report dated 17/06/2016 opined that updating of tender rates by considering irregular aspects is a financial irregularity and the concerned Executive Engineer, Superintending Engineer, Chief Engineer and the Executive Director of VIDC are only responsible for this irregularity."*

06. Thus, the Sanctioning Authority has taken note of the fact that the Tender Evaluation Committee consisted of Chief Engineer, Superintending Engineer(s) and Executive Engineer. The petitioner i.e. Divisional Accounts Officer was not a Member of the Tender Evaluation Committee. The allotment of marks/relaxation of evaluation criteria and the ultimate decision of the evaluation was a matter within the exclusive domain of the Evaluation Committee and the petitioner had no role to play. The Sanctioning Authority also took note of the fact that the tenders were received *and opened in the Office of Superintending Engineer. He further took note of the fact that the Divisional Accountant under the rules is not required to verify the credibility and authenticity of the tender documents submitted by the bidders, as he is neither a tender opening authority nor a Committee member in the Tender Evaluation Committee appointed by the Government of Maharashtra. The authority then took note of the fact that pre-qualification process of contractors were completed before 10/10/2006 i.e. prior to the petitioner assuming charge in the Division, who assumed the charge on 26/10/2006. The Sanctioning Authority also noticed that the Divisional Accountant has no administrative or financial powers. It is then noted that Divisional Accountant has no role in preparation and revision of estimate and that the financial irregularity in uploading tender rates is attributable to Executive Engineer, Superintending Engineer, Chief Engineer and Executive Director of VIDC.*

07. Despite noting these amongst others vital facts, the Sanctioning Authority has reviewed his earlier order and granted sanction on the sole ground that the examination/investigation of the matter is within the purview of law.

08. In our view, the Sanctioning Authority failed to discharge his duty, which also falls within the purview of law. That being so and since the petitioner is said to have suffered humiliation because of such allegations and even otherwise such allegations would naturally humiliate a high ranking Government Servant as the allegation of corruption will amount to social stigma, before quashing the sanction order, we would like to call upon the Investigating Officer as also the Sanctioning Authority to show cause, as to why should they be not directed to pay Rs.1.00 lakh each as compensation to the petitioner. The learned A.P.P. shall also take instructions as regards status of investigation.

09. List the matter on 12th August, 2025."

2. Mr. S. A. Chaudhari, learned counsel for respondent No.4 submits that respondent No.4 has revisited the issue of sanction due to inadvertence. He submits that there was no ill intention in revisiting the issue of sanction.

3. Mr. S. S. Doifode, learned A.P.P. has invited our attention to the first paragraph of the sanction order. Respondent No.4 has noted that the investigating officer has, vide letter dated 05.01.2019, requested to reconsider the issue of sanction to prosecute one Chandan Tulshiram Jibhkate, Senior Divisional Accounts Officer in Crime No.542/2017. Respondent No.1 then noted that he has accordingly considered the matter relating to Mr.Shyam Jagdeo Ambulkar, Senior Divisional Accounts Officer in Crime No.203/2017 (petitioner herein).

4. Thus, it appears that respondent No. 4 was requested to reconsider the sanction to prosecute Mr. Chandan Jibhkate, whereas he has considered the issue of sanction relating to the petitioner. The reason appears to be the post upon which both, Chandan Jibhkate and Shyam Ambulkar were working. Both were posted as Senior Divisional Accounts Officer.

5. Respondent No.4 submits that the mistake is bona fide and has accordingly tendered apology. In our view, if at all respondent No.4 has to tender apology, he should do so before petitioner. Accordingly, respondent No.4, who is present in the Court, submits that he tenders apology to the petitioner. Learned counsel for petitioner, on instructions, accepts the apology.

6. Considering the above, we relieve respondent No.4 from paying compensation to the petitioner.

7. As regards investigating officer, since he had never requested respondent No.4 to revisit the issue of sanction against the petitioner, he cannot be blamed for subsequent orders. He is also accordingly relieved from paying compensation. Accordingly and for the reasons stated in our order dated 06.08.2025, we proceed to pass following order.

ORDER

(i) The writ petition is allowed.

(ii) Sanction order 18.01.2019, passed by respondent No.3, granting sanction to prosecute the petitioner in Crime No.203/2017, registered with respondent No.1, is quashed and set aside.

(iii) The writ petition is disposed of. No order as to costs.

(Siddheshwar S. Thombre,J.) **(Anil L. Pansare, J.)**

Kahale