

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**

**BENCH AT AURANGABAD**

**MISC. APPLICATION ST. NO. 791 OF 2017**

**IN**

**ORIGINAL APPLICATION NO. 326 OF 2012**

DIST. : NANDURBAR

Madhav Chintaman Padavi,  
Age. 56 years, Occ. Govt. Service,  
R/o Plot no. 30, Jay hind colony,  
Taloda Road, Nandurbar,  
Tq. & Dist. Nandurbar.

-- APPLICANT

**VERSUS**

1. Rajgopal Deora,  
Age. Major, Occu. Govt. Service,  
Then Principal Secretary,  
Co-operation,  
Marketing & Textile Department,  
At Present : working as Principal Secretary,  
Adiwasi Vikas Vibhag, Mantralaya,  
Mumbai.

-- RESPONDENT

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APPEARANCE : Shri F.R. Tandale, learned Advocate for  
the applicant.

: Shri M.S. Mahajan, learned Chief  
Presenting Officer for respondent.

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**CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN  
AND  
ATUL RAJ CHADHA, MEMBER (A)**

**DATE : 24<sup>th</sup> October, 2018**  
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**J U D G E M E N T**

(Per : Justice M.T. Joshi, Vice Chairman)

Heard Shri F.R. Tandale, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondent.

2. Perused the office objections, which are as under :-

*“(i) Shri Rajgopal Deora, Party respondent has not sworn affidavit in O.A. no. 326/2012.*

*(ii) Gopal Genu Mavale, who has sworn affidavit in O.A. no. 326/2012 is not made party respondent in M.A. st. 791/2017.”*

3. Learned Advocate for the applicant undertook to satisfy the Tribunal on the aforesaid office objections.

4. By the present application the applicant prays for registration of crime U/s 340 of the Criminal Procedure Code against the present respondent Shri Rajgopal Deora for swearing false affidavit in reply on oath in the O.A.

5. Reading of present misc. application would show that the present applicant was suspended from his services on 22.4.2010 under the signature of respondent Shri Rajgopal Deora, who was then Commissioner of Co-operation. The present applicant

preferred an appeal against the said suspension order. As no order was passed on his appeal, the applicant filed writ petition No. 4404/2011 before the Hon'ble High Court. In the said writ petition the Hon'ble High Court vide directions dtd. 30.6.2011 directed the respondents to decide the appeal within the time frame. Since the said directions were not followed, the C.P. no. 213/2012 was filed by the applicant.

6. In the said C.P. the present respondent Shri Rajgopal Deora appears to have filed affidavit in reply in which in para 8 he averred as under :-

*"I say that on the basis of representation, a proposal for decision on his appeal was submitted to government and it was decided to revoke the suspension of the petitioner and to start departmental enquiry against him. Accordingly, Shri Padavi was reinstated in government service vide order dtd. 5.12.2011 and posted as Deputy Director (Sugar), Nagpur. That, the statement given by non-applicant was totally incorrect and false and the same was made just to mislead to Hon'ble High Court."*

7. Hon'ble High Court, however, observed that, mere revocation of the suspension is not a decision in the appeal. The concerned authority is required to find out as to whether the suspension was justified or not and the C.P. came to be disposed off.

8. According to the present applicant, the statement of respondent Shri Deora as mentioned above is false. The applicant, however, did not find it fit at that time to apply for filing any criminal case against the respondent Shri Deora. However, in the present O.A. the respondent filed affidavit on 10.1.2013, wherein in sub para 3 & 4 of para 7 the same statements are repealed. According to the present applicant, since these statements are false, the present respondent should be dealt with as per the provisions of sec. 340 of Criminal Procedure Code.

9. In the present O.A. the said affidavit is not sworn by the present respondent in M.A. Shri Rajgopal Deora, but it is sworn by one Shri Gopal Genu Mavale, Dy. Registrar, Co-operative Society, Aurangabad. In the said affidavit same statement is made as mentioned hereinabove.

10. Learned Advocate for the applicant has placed reliance on the judgment of Hon'ble Delhi High Court dtd. 18.11.2010 in Test Case no. 19/2004 [**Sanjeev Kumar Mittal Vs. The State**] reported at **2011 RCR (CRI) (7) 2111**.

11. From the record it appears that Shri Rajgopal Deora has not made any false statement in this Tribunal in the O.A. The said statement is made in the affidavit filed by Shri Gopal Genu

Mavale. Further said statement cannot be termed as false for an offence punishable U/s 195 of the Indian Penal Code. At the most it could be untenable submission from the side of respondents. The provisions of sec. 340 of Cr. P.C. is as under :-

**“Section 340 in The Code Of Criminal Procedure, 1973**

*340. Procedure in cases mentioned in section 195.*

*(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-*

*(a) record a finding to that effect;*

*(b) make a complaint thereof in writing;*

*(c) send it to a Magistrate of the first class having jurisdiction;*

*(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and*

*(e) bind over any person to appear and give evidence before such Magistrate.*

*(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.*

*(3) A complaint made under this section shall be signed,-*

*(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;*

*(b) in any other case, by the presiding officer of the Court.*

*(4) In this section, " Court" has the same meaning as in section 195."*

12. For the reasons mentioned hereinabove, the office objections raised by the registry are proper even on merit. No case is made out by the present applicant for dealing against the respondent Shri Rajgopal Deora as per the provisions of sec. 340 of the Cr. Procedure Code. In the circumstances, the present M.A. is dismissed without any order as to costs.

**(ATUL RAJ CHADHA)**  
**MEMBER (A)**

**(M.T. JOSHI)**  
**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 24.10.2018**