

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NOS. 862, 863, 864, 865, 866, 867,  
868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879,  
880, 881 & 882 ALL OF 2017  
(Subject – Recovery)**

**1. ORIGINAL APPLICATION NO. 862 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )  
.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )  
... **RESPONDENTS**

**W I T H**

**2. ORIGINAL APPLICATION NO. 863 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )  
.... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... RESPONDENTS

**W I T H****3. ORIGINAL APPLICATION NO. 864 OF 2017****DISTRICT : JALGAON**

- Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... RESPONDENTS

**W I T H****4. ORIGINAL APPLICATION NO. 865 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )
2. **The Divisional Commissioner,** )  
 Nasik Division, Nasik. )
3. **The Collector,** )  
 Jalgaon. )  
 ... **RESPONDENTS**

**W I T H**

**5. ORIGINAL APPLICATION NO. 866 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )
2. **The Divisional Commissioner,** )  
 Nasik Division, Nasik. )

3. **The Collector,** )  
 Jalgaon. )  
 ... RESPONDENTS

**W I T H**

**6. ORIGINAL APPLICATION NO. 867 OF 2017**

**DISTRICT : JALGAON**

- Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )
2. **The Divisional Commissioner,** )  
 Nasik Division, Nasik. )
3. **The Collector,** )  
 Jalgaon. )  
 ... RESPONDENTS

**W I T H**

**7. ORIGINAL APPLICATION NO. 868 OF 2017**

**DISTRICT : JALGAON**

- Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )

... RESPONDENTS

W I T H

**8. ORIGINAL APPLICATION NO. 869 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )

... RESPONDENTS

W I T H

**9. ORIGINAL APPLICATION NO. 870 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... **RESPONDENTS****W I T H****10. ORIGINAL APPLICATION NO. 871 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... **RESPONDENTS****W I T H**

**11. ORIGINAL APPLICATION NO. 872 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )
2. **The Divisional Commissioner,** )  
 Nasik Division, Nasik. )
3. **The Collector,** )  
 Jalgaon. )  
 ... **RESPONDENTS**

**W I T H****12. ORIGINAL APPLICATION NO. 873 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )

... RESPONDENTS

W I T H

**13. ORIGINAL APPLICATION NO. 874 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )

... RESPONDENTS

W I T H

**14. ORIGINAL APPLICATION NO. 875 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )



.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... **RESPONDENTS****W I T H****15. ORIGINAL APPLICATION NO. 876 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... **RESPONDENTS****W I T H**

**16. ORIGINAL APPLICATION NO. 877 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )
- 2. The Divisional Commissioner,** )  
 Nasik Division, Nasik. )
- 3. The Collector,** )  
 Jalgaon. )  
 ... **RESPONDENTS**

**W I T H****17. ORIGINAL APPLICATION NO. 878 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )  
 .... **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )

... RESPONDENTS

**W I T H**

**18. ORIGINAL APPLICATION NO. 879 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )

**2. The Divisional Commissioner,** )  
Nasik Division, Nasik. )

**3. The Collector,** )  
Jalgaon. )

... RESPONDENTS

**W I T H**

**19. ORIGINAL APPLICATION NO. 880 OF 2017**

**DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... **RESPONDENTS****W I T H****20. ORIGINAL APPLICATION NO. 881 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
Age : 59 years, Occ. : Pensioner, )  
R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
At present R/o. Sonwad, Tq. Dharangaon, )  
Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
Through : Under Secretary, )  
Food and Civil Supply & Consumer )  
Protection Department, Mantralaya, )  
Mumbai. )
2. **The Divisional Commissioner,** )  
Nasik Division, Nasik. )
3. **The Collector,** )  
Jalgaon. )

... **RESPONDENTS****W I T H**

**21. ORIGINAL APPLICATION NO. 882 OF 2017****DISTRICT : JALGAON**

**Tulshidas S/o Keshav Patil,** )  
 Age : 59 years, Occ. : Pensioner, )  
 R/o. Sawada, Tq. Raver, Dist. Jalgaon. )  
 At present R/o. Sonwad, Tq. Dharangaon, )  
 Dist. Jalgaon. )

.... **APPLICANT****V E R S U S**

1. **The State of Maharashtra,** )  
 Through : Under Secretary, )  
 Food and Civil Supply & Consumer )  
 Protection Department, Mantralaya, )  
 Mumbai. )
2. **The Divisional Commissioner,** )  
 Nasik Division, Nasik. )
3. **The Collector,** )  
 Jalgaon. )

... **RESPONDENTS**

**APPEARANCE** : Shri M.K. Deshpande, Advocate for the  
 Applicant in all these O.As.

: Shri M.P. Gude, Presenting Officer for  
 Respondents in all these O.As.

**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **16.06.2022.**

**C O M M O N - O R D E R**

1. In all these Original Applications facts and law involved are common. Hence, all these matters can be decided by a common order conveniently.

2. The applicant in all these O.As. is one and the same. The present Original Applications are filed challenging 21 different orders dated 20/25.02.2016 issued by the respondent No. 1 State of Maharashtra and the orders dated 13.03.2015 & 04.12.2013 respectively passed by the respondent Nos. 2 and 3. The orders dated 04.12.2013 issued by the respondent No. 3 Collector, Jalgaon are the orders of recovery and the amount in respect of 21 different stacks towards loss caused to the Government due to negligence of the applicant in taking care of stored Hybrid jowar stored in the Government Godown at Sawada, Tq. Raver, Dist. Jalgaon (including one godown at Sawada, two godowns at Chinawal, and one godown at Utkheda) and the orders dated 13.03.2015 are issued by the respondent No. 2 i.e. the Divisional Commissioner, Nashik passed in appeal confirmed the order dated 04.12.2013 issued by the respondent No. 3 and the orders dated 20/25.02.2016 issued by the respondent No. 1 holding that Review Applications are not maintainable.

3. The facts in brief giving rise to all these applicants can be summarized as follows :-

- (i) During the relevant period of 2005-06 the applicant was working as Godown Keeper at Government Godown

Sawada, Tq. Raver, Dist. Jalgaon. During the said period, food grains namely Hybrid Jowar, which was purchased through Food Corporation of India by the Government of Maharashtra for distribution to public at-large was kept in Government Godown at Sawada. The grains were kept in 21 different stacks and in each stack the hybrid jowar ranging 580 to 484 quintals was stacked. The details of the stock of hybrid jowar, it's date of purchase and actual distribution etc. shown in various columns, are as follows :-

Sr . No .	Stack No.	Days	Total Stock in quintals	Actual distributio n	Godown-loss	Percenta ge	Remaining stock after deducting 2% loss	1.5 of Rs. 525
1.	1.5.06	10.11.05 to 21.1.07 days 468	580.00.000	548.18.000	31.82.000	5.49	20.22	15923
2.	2.5.06	16.11.20 to 21.1.07 days 432	535.00.000	500.22.000	34.78.000	6.50	24.08	18963
3.	3.5.06	18.11.05 to 22.1.07 days 430	691.00.000	642.02.000	48.98.000	6.51	35.16	27689
4.	4.5.06	22.11.05 to 21.1.07 days 426	658.00.000	615.20.000	42.80.000	6.50	29.64	23342
5.	5.5.06	25.11.05 to 21.1.07 days 423	619.00.000	578.70.000	40.30.000	6.51	27.92	21978
6.	6.5.06	28.11.05 to 21.1.07 days 420	639.00.000	597.46.000	41.54.000	6.50	28.76	22649

7.	7.5.06	29.11.05 to 21.1.07 days 419	683.00.000	638.56.000	44.44.000	6.51	30.78	24239
8.	8.5.06	1.12.05 to 21.1.07 days 416	566.00.000	532.32.000	33.68.000	5.95	22.36	17609
9.	9.5.06	2.12.05 to 20.9.07 days 425	548.00.000	515.36.000	32.64.000	5.96	21.68	17073
10.	10.5.06	3.12.05 to 21.1.07 days 415	547.00.000	514.45.000	32.55.000	5.95	21.61	17018
11.	11.5.06	5.12.05 to 20.1.07 days 413	650.00.000	611.33.000	38.67.000	5.95	25.67	20215
12.	12.5.06	5.12.05 to 1.1.07 days 413	449.00.000	442.19.000	26.81.000	5.97	17.83	14041
13.	13.5.06	7.12.05 to 21.1.07 days 411	684.00.000	641.73.000	42.27.000	6.18	28.59	22515
14.	14.5.06	12.12.05 to 21.1.07 days 406	633.00.000	593.00.000	40.00.000	6.32	27.34	21530
15.	15.5.06	13.12.05 to 20.1.07 days 406	692.00.000	648.47.000	43.53.000	6.29	29.69	23381
16.	16.5.06	14.12.05 to 22.1.07 days 405	684.00.000	640.98.000	43.02.000	6.29	29.34	23105
17.	17.5.06	27.12.05 to 23.1.07 days 468	573.00.000	536.39.000	33.61.000	6.39	25.15	19806
18.	18.5.06	17.12.05 to 25.1.07 days 405	758.00.000	737.23.000	22.77.000	2.74	5.61	4418



19	19.5.06	20.12.05 to 25.1.07 days 416	650.00.000	632.26.000	17.74.000	2.73	4.74	3733
20	20.5.06	23.12.05 to 25.1.07 days 399	649.00.000	631.28.000	17.72.000	2.73	4.74	3733
21	21.5.06	2.1.06 to 25.1.07 days 309	484.00.000	470.79.000	13.21.000	2.73	3.53	2780

(ii) It is submitted that on the basis of above stock of food grains viz. Hybrid Jowar, the applicant was served with a show cause notice by the Additional Collector, Jalgaon on 26.03.2009 (Annexure-1 in O.A. 862/2017) and the applicant was directed to show cause as to why an amount of Rs. 3,65,749/- may not be recovered from the applicant for the financial loss caused to the Government because of the deficit in respect of food grains during the year 2005-06 and why the said loss may not be recovered from him. The applicant submitted his reply dated 30.04.2009 (Annexure-2 in O.A. No. 862/2017) thereby denying adverse contentions and submitted that life of food grains of Hybrid Jowar was very short i.e. for the period of 7-8 months and food grains were kept in the godown for more than that period i.e. for 309 to 438 days and therefore, the stock of Hybrid Jowar was deteriorated in natural course.

Moreover, stock of Hybrid Jowar was stored in godown more than having its capacity and fumigation was not done properly. Therefore, the loss is natural and it is caused due to non-distribution of the food grains in time by the Food Corporation of India or Marketing Federation. He was not responsible for alleged loss.

(iii) In order to substantiate the alleged loss, the respondents relied upon the communication dated 01.04.2008 (part of Annexure A-2) issued by the Dy. Secretary, Food, Civil Supply and Consumer Protection Department, Mantralaya, Mumbai. The applicant however, submitted that the respondents failed to take into consideration the contentions raised by him in his reply dated 30.04.2009 (Annexure -2 in O.A. No. 862/2017), which speaks of statement / certificate issued by the Tahasildar, Raver thereby certifying that any of the officer is not responsible for loss, but the loss is caused due to food grains being stored for considerable longer period and that loss is not caused due to theft or misappropriation.

(iv) The applicant further relied upon the G.R. dated 07.12.1991 (Annexure -7 in O.A. No. 862/2017) issued by

the respondent No. 1, letter dated 27.04.1998 addressed by the respondent No. 1 to the Additional Collector, Latur, Dist. Latur and G.R. dated 30.11.1999 (Annexure -9 in O.A. No. 862/2017) again issued by the respondent No. 1. Those documents in nutshell show that the loss/deficit of stored grains of Hybrid Jowar up to 6% can be considered as per the G.R. dated 07.12.1991. As per the letter dated 27.04.1998, self-life of stored Hybrid Jowar is about 6-7 months. Lastly as per the G.R. dated 30.11.1999, the alleged loss is to be certified by the officer of the rank of Additional Collector. According to the applicant, the original impugned order dated 04.12.2013 (Annexure -4 in O.A. No. 862/2017) did not take into consideration these guidelines. Moreover, no requisite Departmental Enquiry is held against the applicant to infer loss attributable to the applicant. Hence, the whole action is liable to be quashed and set aside. Hence, the present Original Applications.

4. The affidavit in reply is filed on behalf of respondent Nos. 2 and 3 by one Shri Vijaykumar S/o Khanderao Dhage, working as Tahsildar, Raver, Dist. Jalgaon, thereby he denied all the adverse contentions raised in the Original Applications. It is specifically contended that the applicant was working as Godown Keeper

during the relevant period of 2005-06 at Government Godown Sawada, Tq. Raver, Dist. Jalgaon. During that period the applicant ought to have taken every possible care to protect the food grains from insects and other affecting factors. It was noticed that the applicant did not take any such measure for protection of food grains. It was the official duty of the applicant that, if he found any harm, damage or loss likely to be caused to food grains, he ought to have mandatorily inspected the godown and made report to the concerned Tahasildar. The applicant acted negligently and never submitted any such report to the reporting authority. It is further stated that as per the Government Circular dated 01.04.2008, in respect of food grains of Jowar, permitted loss / deficit is up to 2%, while stored in godown. However, in the cases in hand, such loss is more than 2% and therefore, the Godown Keeper i.e. the applicant is responsible for the said loss. The loss is calculated in accordance with rules. In the circumstances, there is no merit in the present Original Applications filed by the applicant and are liable to be dismissed.

5. The applicant filed rejoinder affidavit thereby he denied all the adverse contentions raised in the affidavit in reply filed on behalf of respondent Nos. 2 and 3.

6. I have heard the arguments at length advanced by Shri M.K. Deshpande, learned Advocate for the applicants in all these O.As. on one hand and Shri M.P. Gude, learned Presenting Officer for the respondents in all these O.As. on the other hand.

7. At the outset, learned Advocate for the applicant strenuously urged before me that the liability attributed to the applicant by the respondent No. 3 basically by impugned order dated 04.12.2013 (Annexure -4 in O.A. No. 862/2017) is not in accordance with law and rules and more particularly the said order is issued in contraventions of the provisions of the G.R. dated 07.12.1991 (Annexure -7 in O.A. No. 862/2017) issued by the respondent No. 1, the letter dated 27.04.1998 (Annexure -8 in O.A. No. 862/2017) addressed to the Additional Collector, Jalgaon by the respondent No. 1 and the G.R. dated 30.11.1999 (Annexure-9 in O.A. No. 862/2017) issued by the respondent No. 1. He further submitted that the liability was fixed upon the applicant only by issuing show cause notice without holding regular Departmental Enquiry. In view of the same, the impugned orders are liable to be quashed and set aside. To support the said submissions, he placed reliance on the decision of the Hon'ble High Court of Madhya Pradesh delivered on 04.09.2019 in **W.P. No. 18375/2019** in the matter of **Rajendra**

**Kumar Sharma Vs. State of M.P. Gwalior.** He further submitted that the respondent No. 3 failed to take into consideration the certificate / statement (Page Nos. 36 to 37 in O.A. No. 862/2017 of the paper book) issued by the Tahasildar, Raver, which provided that no any officer was responsible for loss and that loss is caused due to food grains stored for longer period.

8. On the other hand, learned Presenting Officer appearing on behalf of respondents opposed the submissions raised on behalf of the applicant and submitted that the applicant while working as Godown Keeper at Government Godown, Sawada, Tq. Raver, Dist. Jalgaon, it was his official duty to maintain official record and register about the food gran kept in godown. It was also official duty to make arrangement for the fumigation and filing status report of food grains in time to the higher officials. According to him, liability is rightly fixed upon the applicant in accordance with law.

9. Considering the rival pleadings, it is evident that the liability is fixed upon the applicant only by issuing show cause notice and without holding full-fledged Departmental Enquiry.

10. In the case relied upon by the learned Advocate for the applicant in the matter of **Rajendra Kumar Sharma** (cited supra) it is observed that though charge-sheet was issued to the petitioner and petitioner's reply was received, no regular Departmental Enquiry was conducted, as according to the respondents it was not required. The said case is also relating to fastening of pecuniary liability on the basis of negligence or breach of orders. In para No. 21 of the said judgment, it is observed as follows :-

“21. The fastening of pecuniary liability on the basis of negligence or breach of orders, involves decision on four relevant aspects:

(a) What was the duty of the employee?

(b) Whether there was any negligence or breach of order on the part of the employee while performing such duties?

(c) Whether the negligence or breach of order has resulted in any financial loss to the employer?

(d) What is the quantum of pecuniary loss and whether the pecuniary loss claimed include any remote damage and whether the employer has taken steps to mitigate the loss?

These are not matters that could be decided without evidence, and without giving an opportunity to the employee to let in evidence. Therefore, where the charge of negligence or breach of lawful order is denied, a regular enquiry is absolutely

necessary before fastening financial liability on the employee, by way of punishment or recovery of pecuniary loss from the employees. However, having regard to the decision in FCI, regular inquiry can be dispensed with, for valid reasons, if the amount to be recovered is small (which in the absence of a specific provision, does not exceed the equivalent of three years increment at the time of imposition of penalty). Any attempt to fasten any higher monetary liability on an employee without a regular enquiry, by terming it as a minor penalty, would be a travesty of justice."

The careful reading of these decisions and applying the principle of law in the facts of present case, leaves no iota of doubt that in the case at hand the disciplinary authority acted arbitrarily in dispensing from holding a regular departmental enquiry for no recorded reasons. Or even if there were reasons, the same were not communicated. " Thus, it is clear that whenever the allegations are denied by the delinquent officer, then the disciplinary authority is under obligation to give a finding as to why the departmental enquiry is not required. Furthermore, the factual allegations which have been denied by the delinquent officer, cannot be held to be proved merely by saying that the reply submitted by the departmental officer is not satisfactory."

11. In the cases in hand also the penalty of recovery of an amount of Rs. 3,65,749/- towards the alleged loss caused to the Government was imposed merely by issuing show cause notice and by taking reply from the applicant. According to the



applicant, reply filed by him to the said show cause notice was also not considered by the respondents.

12. Considering the nature of allegations leveled against the applicant, it is apparent that the allegations leveled against the applicant are of serious nature. Hence, the proper course could have been of holding Departmental Enquiry against the applicant, which would have given fair opportunity to the applicant to defend himself exhaustively. From the impugned orders, it appears that the contentions raised by the applicant on the basis of G.R. dated 07.12.1991 (Annexure -7 in O.A. No. 862/2017) issued by the respondent No. 1, the letter dated 27.04.1998 (Annexure -8 in O.A. No. 862/2017) addressed to the Additional Collector, Jalgaon by the respondent No. 1 and the G.R. dated 30.11.1999 (Annexure-9 in O.A. No. 862/2017) issued by the respondent No. 1 were not at all taken into consideration by the respondents. It is not clear as to what diligent steps were taken by the respondents to distribute the remaining quota of food grains. It was kept lying idle, which deteriorated the same in natural course. Moreover, certificate for such alleged loss from the Additional Collector was mandatory requirement as provided in clause 5 of the G.R. dated 30.11.1999 (Annexure -9 in O.A. No. 862/2017). That is not fulfilled.

13. In view of the above facts and circumstances, in my considered opinion, the ratio relied upon by the learned Advocate for the applicant would be aptly applicable to the instant case. Moreover, there is clear-cut contravention of provision of G.Rs. and Circular as discussed above, while issuing the impugned orders. In view of the same, the impugned orders are not sustainable in the eyes of law and are required to be quashed and set aside. I therefore, proceed to pass following order :-

**ORDER**

All the Original Applications are allowed in following terms:-

(A) The impugned orders dated 20/25.02.2016 issued by the respondent No. 1 and the orders dated 13.03.2015 & 04.12.2013 respectively passed by the respondent Nos. 2 and 3 are hereby quashed and set aside.

(B) There shall be no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 16.06.2022**

**(V.D. DONGRE)**  
**MEMBER (J)**