

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**M.A.No.422 of 2015 in M.A.No.470 of 2014**

**with**

**O.A.No.29 of 2015**

**DISTRICT: THANE**

Chief Executive Officer, ZP, Thane

..... Applicant (Org. Respondent No.3.)

**Versus**

1. Shahadev Bhivsen Pawar

..... Respondent (Org. Applicant)

2. State of Maharashtra & Ors.

..... Org. Respondent Nos.1, 2 & 4.

Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Applicant (Org. Respondent No.3.

None for the Respondent No.1 (Org. Applicant) and Respondent Nos.1, 2 and 4.

**CORAM :** SHRI J.D. KULKARNI, MEMBER (J)

**DATE :** 29.01.2016.

**J U D G M E N T**

1. Heard Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Applicant (Org. Respondent No.3. None for the Respondent No.1 (Org. Applicant) and Respondent Nos.1, 2 and 4.

2. In this Miscellaneous Application, the Applicant joined as Chief Executive Officer, Zilla Parishad, Thane has claimed that the order passed by the Hon'ble Tribunal on 01.07.2015 in O.A.No.29 of 2015 with M.A.No.470 of 2014 as regards



imposition of costs of Rs.10,000/- be reviewed. Applicant was Respondent No.3 in the O.A.

3. The impugned order has been passed by this Tribunal on 01.07.2015. In paragraphs No.15 to 17 the Hon'ble Tribunal has observed as under :-

*"15. The order dated 15.12.2014 of this Tribunal reads as follows:*

*"2. Learned PO states that the Director of Education, Maharashtra State is directed to file affidavit before next date on following points:*

- a) Whether he has received the communication (Annexure 'C' at page 25)?*
  - b) Has he taken any action on said communication?*
  - c) Is the applicant continued in the employment of the Government of Maharashtra?*
  - d) Is any disciplinary proceeding taken and pending against the applicant?*
  - e) If no action is taken on Exhibit C page 25 so far, reasons and circumstances due to which no action is taken?*
  - f) Who shall be responsible towards inaction and for failure to give an applicant a posting if he was otherwise entitled?*
- 3. Learned PO is directed to communicate this order and secure reply and affidavit."*

*16. Notwithstanding the aforesaid directions, neither any responsible officer has appeared before the PO to give suitable instructions to the Ld. PO nor has an affidavit in reply been filed. Today the Assistant Administrative Officer of ZP, Thane is present. CEO, ZP, Thane has also not filed any reply. Both the respondents have been negligent regarding the proceedings before this Tribunal. They have been casual and the said attitude betrays an utter disregard to court matters. This, in fact, amounts to contempt of Court.*

*17. For failure to comply with the directions of this Tribunal a cost of Rs.10,000/- each is imposed on the Director, Education as well as CEO, ZP, Thane. The said amount should be paid from their personal accounts. The cost should be paid within ten days of the date of this order."*

(Quoted paragraph No.15 to 17  
from copy of order at pages 14 & 15)

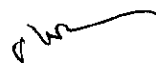
4. According to the Applicant, the Hon'ble Tribunal has passed the order imposing personal costs on the Respondent No.3. It is submitted that the Respondent No.3 has engaged one Shri Subhash B. Pawar, learned Advocate High Court to defend Respondent No.3 in the O.A. and the Vakalatnama was signed on 01.10.2014. Learned Advocate Shri S.B. Pawar did not file Vakalatnama before the Tribunal. Even appropriate instructions and para-wise comments were also given to learned Advocate Shri S.B. Pawar. Shri S.B. Pawar however, did not take any action on the same nor appeared in the O.A. and therefore affidavit could not be filed on behalf of Respondent No.3 i.e. Applicant. The Applicant was not aware of such of the proceedings for filing the reply. He could not file reply due to ignorance of the fact that there was no malafide intention on behalf of Respondent No.3. The Applicant therefore has prayed that the personal costs of Rs.10,000/- deposited by him vide receipt dated 23.07.2015 be refunded to him.

5. Heard the learned C.P.O. Shri N.K. Rajpurohit on behalf of the Applicant. Additional affidavit is also placed on record today which has been sworn in by one Shri Uday G. Chaudhari, Chief Executive Officer, Zilla Parishad Thane. In the said affidavit the facts on the basis on which the application is filed has been reiterated. It is further stated that one Shri P.L. Kavane was handling the matter and he was suspended from service on 10.12.2014. Due to his suspension primary charge was given to one Shri G.V. Kulkarni, Deputy Education Officer on 11.12.2014 till 23.02.2015. In the meantime as per Government order dated 11.02.2015 one Smt. Meena H. Yadav was appointed as Education Officer in Zilla Parishad, Thane.



6. In the additional Affidavit the Applicant tried to justify his ignorance as regards the fact that the matter was kept for filing of reply affidavit before the Tribunal. It is stated that one Shri B.A. Gomase, Superintendent (Class – II) was present before the Tribunal and he also called learned Advocate Shri S.B. Pawar and sent telephonic message to Shri S.B. Pawar and Shri S.B. Pawar responded that he will attend the Tribunal at the earliest. Shri S.B. Pawar however did not remain present and therefore the Zilla Parishad, Thane was pleased to depute one Shri M.B. Shejval, Junior Administrative Officer, (Class-III) to attend the Tribunal for the reasons stated in paragraph 4 of the additional affidavit. It is stated that due to non corporation from lawyer the reply was not filed. The relevant documents are also placed on record including the scanned message on mobile between the officer of the Zilla Parishad and learned Advocate Shri S.B. Pawar.

7. Considering the reply and additional reply filed by the Respondents, it seems that the Respondent No.3 i.e. the applicant could not attend the Tribunal due to negligence of learned Advocate Shri S.B. Pawar as stated in the affidavit. The Tribunal however, observed that the Respondents officer did not appear to give instructions to the learned C.P.O. and C.E.O., Z.P., Thane was negligent and has shown casual approach and therefore the fine has been imposed. There can be no dispute of the fact that there was negligence on the part of Respondent No.3 i.e. applicant in not attending the Tribunal. However, considering the facts stated in the affidavit and additional affidavit I feel that it is a fit case where the order imposing personal fine of Rs.10,000/- needs to be reviewed. Considering the fact that the O.A. has been dismissed on the same day since the delay was not condoned, it is necessary to take lenient view. It is expected that the applicant shall be diligent in attending matters before the Tribunal in future.



8. In view thereof following order is passed :-

**ORDER**

The impugned order in paragraph 17 dated 01.07.2015 as regards imposition of personal fine of Rs.10,000/- on the Director, Education as well as C.E.O., Z.P., Thane is reviewed and the same stands cancelled.

The Applicant is entitled to claim refund of the amount of Rs.10,000/- which he has deposited as costs vide receipt dated 23.07.2015.

M.A. stands disposed off accordingly with no order as to costs.



(J.D. Kulkarni)  
Member(J)

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