

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 960 OF 2019
(CORRECTED COPY OF THE ORDER)**

DISTRICT : NAVI MUMBAI

Shri Abhimanyu Eknath Kerure,)
Occ-Service, R/o: B-1, Mahagajan,)
Sector-9A, Vashi, Navi Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Medical Education and Drugs,)
Department, Mantralaya,)
Mumbai – 32.)
2. The Food Safety Commissioner,)
Food & Drugs Administration,)
Bandra Kurla Complex,)
Mumbai 400 051.)
3. The Central Licensing Authority)
& Food Safety and Standards)
Authority of India,)
Through its Chief Executive Officer,)
Western Region Unit No. 902,)
9th floor, Hallmark Business Plaza,)
Opp Gurunanak Hospital,)
Bandra [E], Mumbai.)

4. Smt Pankaja Gopinath Munde,)
 Hon'ble Minister,)
 Rural Development, Women and)
 Child Development Department,)
 Mantralaya, Mumbai – 32.)...**Respondents**

Shri A.E Kerure, applicant in person.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents no 1 & 2.

Shri Siddhant Sinha i/b Hammurabi & Solomon Partners for Respondent no. 3.

CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)

DATE : 25.04.2023

J U D G M E N T

1. The applicant prays that this Tribunal be pleased to quash and set aside the memorandum dated 27.9.2018 initiating departmental enquiry against him.

2. The applicant submits that in view of the remark passed by the Respondent-State, he prays to amend the prayer clause to the extent of giving challenge to the word 'warning'. Permission granted. Amendment to be carried out forthwith. The copy of Notings of the Respondent-State dated 25.4.2023 is taken on record and marked as Exh. I and copy of Pursis filed by the applicant is taken on record and marked as Exh. II.

3. The applicant submits that he is working as Assistant Commissioner (Food) and Designated Officer (Group-A). He was transferred to the post of Assistant Commissioner (Food) and Designated Officer, Beed vide order dated 31.5.2017 issued by the Commissioner, Food & Drugs Administration, M.S, Mumbai. Applicant submits that on 19.03.2018, he suspended the license of M/s. Vaidyanath Sahakari Sakhar Karkhana Maryadit for 10 days. Pursuant to that by order dated 16.08.2018 he was suspended from the service on the ground that his action of suspending license of the said Sugar Factory was without having any authority and power and in breach of Rule 23 of the Maharashtra Civil Services (Conduct) Rules 1979. Applicant has submitted that the enquiry is illegal and he has not committed any wrong and has followed the procedure as contemplated under Section 32(3) of the Food Safety and Standards Act, 2006.

4. Learned counsel Mr Siddhant Sinha for Respondent no. 3, submits that the action taken by the applicant is within the four corners of the rules and regulations of Food Safety and Standards Act, 2006. Learned counsel further submits and pointed out to the relevant paragraph in the affidavit in reply filed on behalf of Respondent no. 3, wherein it is stated that all action taken by the applicant being Assistant Commissioner of Food and Drugs Authority, Beed were done in accordance with the powers delegated to him under Food Safety and Standards Act, 2006 read with the Rules and Regulations and that the applicant has not gone beyond the powers delegated under the letter issued by Respondent no. 3.

5. Today the noting dated 25.4.2023 in the matter of the applicant is placed before us. They have submitted that the Hon'ble Minister, Food and Drugs Administration has signed the file today with following remarks:-

“तकीद देवून विभागीय चौकशी बंद करावी”.

Learned C.P.O submits that the Respondents wants to close the departmental enquiry and give warning to the applicant.

6. On hearing these submissions, we put query to the learned C.P.O, as to under what circumstances a warning is generally given in the administration. Learned C.P.O submits that warning is not a punishment under the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. These submissions of the learned C.P.O is acceptable. However, our query is not about the punishment, but under what circumstances a warning is given to a civil servant. Learned C.P.O on instructions from the officer present states that they not in a position to submit.

7. Considering the submissions and the answer given to our queries, as per Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, ‘warning’ is not a punishment. We understand that when a person is at fault or committed any wrong then he is required to be corrected or to be improved for which ‘warning’ is given. However, when a person has not done any wrong, all he has acted as per the rules, within his authority, then there is no need to give him the ‘warning’. The morale of the Civil servant matters. Nothing is pointed out to us and nothing is placed on record to support the remarks passed by the Hon’ble Minister. Needless to say, that every order passed or action taken by the authority should be fair and judicious adhering to the principles of natural justice. In the present case, therefore, we hold that such remark and action of giving warning to the applicant in the present factual and legal scenario is unwarranted, unfair and arbitrary. Hence, it

is necessary to invoke the power of judicial review to quash and set aside the said order of giving 'warning'.

8. Hence, we pass the following order.

(a) The Original Application is allowed.

(b) We uphold the order of the Respondent-State of closing the departmental enquiry against the applicant. However, the order of giving 'warning' to the applicant is hereby quashed and set aside.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 25.04.2023
Dictation taken by : A.K. Nair.