IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO 967 OF 2018

DISTRICT : RAIGAD

Shri Ravikiran Ramesh Awale)
Driver, office of the District)
Superintending Agriculture Officer,)
Raigad, Dist-Raigad [Alibaug].)...**Applicant**

Versus

1. The State of Maharashtra)
Through Additional Chief Secretary,)
[Agriculture], Agriculture Department,)
Mantralaya, Mumbai 400 032.)
2. Commissioner of Agriculture,)
Central Building, M.S, Pune-1.)
3. Joint Director of Agriculture,)
Konkan Division, Thane.)
Thane 400 604.)
4. Superintending Agriculture Officer,)
Ratnagiri, Dist-Ratnagiri.)
5. Shri Raghunath H. Sartape,)
The then Sub Divisional Agricultural)
Officer, Sub Division, Chiplun,)
Dist-Ratnagiri.)
6. The Sub Divisional Agricultural Officer,)
Sub Division, Chiplun,)
Dist-Ratnagiri.)...**Respondents**

Shri P.G Kayande, learned advocate for the Applicant.
Ms Neelima Gohad, learned Presenting Officer for the Respondents.

CORAM : Shri Justice A.H Joshi (Chairman)
Shri P.N Dixit (Member) (A)

DATE : 01.11.2018

PER : Shri Justice A.H Joshi (Chairman)

O R D E R

1. Heard Shri P.G Kayande, learned advocate for the applicant and Ms Neelima Gohad, learned P.O for the Respondents.

2. Applicant has approached this Tribunal for challenging the charge sheet dated 22.8.2018 and transfer order dated 4.5.2018.

3. The transfer is styled as passed on administrative ground

4. Challenge to the transfer order is based on malafides which are also pleaded for challenging the charge sheet.

5. In so far as the challenge to charge sheet is concerned, it is scattered in various paras from paras 6.19 to 6.53 and those are basically malafides, and the imputations being untrue, illegal, biased etc.

6. Factual issues are raised to challenge the charge sheet in ground no. 7.3.

7. Learned advocate for applicant has placed reliance on various judgments as follows:-

(i) Judgment of Hon'ble Supreme Court in State of Punjab & Ors Vs. Ram Singh Ex. Constable, 1992 AIR 2188.

(ii) Judgment of Hon'ble Supreme Court in State of Punjab Vs. VK Khanna & Ors, Appeal (Civil) 6963 of 2000.

(iii) Judgment of Hon'ble Supreme Court in The Government of Andhra Pradesh & Ors Vs. Venkata Rayudu, Appeal (Civil) 2302 of 2005.

(iv) Judgment of Hon'ble Kolkata High Court in Shyam Bahadur Lama Vs. Union of India & Ors, 2005 (1) ECS 769.

(v) Judgment of Hon'ble Supreme Court in Zunjarrao Bhikaji Nagarkar Vs. Union of India & Ors, dated 6th August, 1999.

8. These judgments are relied, namely, to persuade this Tribunal to hold that if the charges are devoid of any culpable material, the enquiry ought to be quashed

9. On reading of charge sheet it is evident that misconduct alleged against the applicant is truly described. What applicant is challenging is "truthfulness" thereof on account of facts pleaded by him and allegations of malafides against Respondent no. 5

10. The questions regarding malafides, bias and truthfulness of allegations are question of facts and have to set as defence while replying the charge sheet.

11. Whenever any employee take recourse to challenge to charge sheet and sets of grounds of challenged in whatever articulated manner and the defence amounts to be a challenge to factual matter thereof being untrue etc. Such plea has to be heard by the Enquiry Authority or Disciplinary Authority and is not open for judicial scrutiny

12. In so far as the illegality underlying the transfer on account of malafides etc., is concerned, it needs to be challenge by filing separate original application which would be heard by single bench of this Tribunal.

13. We therefore, decline O.A. O.A is accordingly disposed of as it does not merit any interference.

Sd/-
(P.N Dixit)
Member (A)

Sd/-
(A.H. Joshi, J.)
Chairman

Place : Mumbai
Date : 01.11.2018
Dictation taken by : A.K. Nair.