

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**AURANGABAD BENCH, AURANGABAD.**

**ORIGINAL APPLICATION NO.534/2014.**

**(D.B.)**

Madhudkar Suryabhan Ingale,  
Aged about 74 years,  
Occ-Agriculture,  
R/o Himalaya, Vyankateshwar Colony,  
Near Hotel VITS, Station Road,  
Aurangabad.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Agriculture, Animal Husbandry,  
Dairy Development and Fisheries,  
Mantralaya, Mumbai-400 032.
2. The Secretary,  
Department of Rural Development and  
Water Conservation,  
Mantralaya, Mumbai-400 032.

**Respondents**

---

Shri A.S. Deshmukh, Ld. Advocate for the applicant.  
Shri N.U. Yadav, Ld. P.O. for the respondents.

---

**Coram:- Shri J.D. Kulkarni, Vice-Chairman (J) and  
Shri P.N. Dixit, Member (A)**

---

**JUDGMENT**

(Delivered on this 7<sup>th</sup> day of April, 2018.)

**PER: Vice-Chairman (J)**

Heard Shri A.S. Deshmukh, the learned counsel for the applicant and Shri N.U. Yadav, the learned P.O. for the respondents.

2. The applicant Shri Madhudkar Suryabhan Ingale (Retired), the then Superintending Agriculture Officer has challenged the order dated 31.7.2014 issued by respondent No.2 whereby following decision was taken by the Government:-

"श्री. एम. एस. इंगळे (सेवानिवृत्त) तत्कालीन अधीक्षक कृषी अधिकारी, लातूर यांनी केलेल्या वित्तीय अनियमिततेमुळे शासनावर निर्माण झालेल्या उत्तरदायित्वाच्या रु. ४५ लाख इतक्या रकमेपैकी रु. ३४,४१,५९६/- (रु. चौतीस लाख एकेचाळीस हजार पाचशे शहाण्णव फक्त) तसेच वाहतुकीपोटी शासनास झालेले नुकसान रु. ९५,४९८/- (रु.पंचाण्णव हजार चारशे अठयान्णव फक्त) अशा एकूण रु. ३५,३७,०९४/- (रु. पस्तीस लाख सदतीस हजार चौर्यान्णव फक्त) इतक्या रकमेची वसुली त्यांच्याकडून महसुली येणेप्रमाणे जिल्हाधीकारी कार्यालयाकडून एक रकमी करण्यात यावी व त्यांचे संपूर्ण सेवानिवृत्तती वेतन कायम स्वरूपी काढून घेण्यात यावे."

3. The applicant has claimed that the aforesaid order passed in departmental enquiry dated 31.7.2014 (Annexure A-17) be quashed and set aside and the applicant be extended with all the benefits including total pension and pensionery benefits with retrospective effect from the date of his retirement, i.e., from 28.2.1999.

4. The applicant belongs to SC category and entered the Department of Agriculture, Govt. of Maharashtra on the post of Agriculture Supervisor on 27.8.1963. On 9.5.2009, he was appointed as direct recruit as Sub-Divisional Soil Conservation Officer in Class-II category since duly selected by MPSC. The appointment on Class-II post was, therefore, under the Department of Agriculture of Govt. of Maharashtra. He was promoted as Class-I and Senior Class-I cadre on 11.9.1981 and 20.2.1991 respectively. He came to be retired on superannuation on 28.2.1999. The Department of Agriculture of Govt. of Maharashtra (R.1) is the appointing authority of the applicant and no other department including the Department of Rural Development and Water Conservation (R.2) is the appointing or disciplinary authority of the applicant for any purposes.

5. During his service tenure, on 17.1.1998, the respondent No.2 was pleased to serve a memorandum of charge to the applicant, whereby departmental enquiry was initiated against the applicant under Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. In the enquiry, the Enquiry Officer was appointed, the applicant put his defence, witnesses were examined and after completion of enquiry, the Enquiry Report was submitted

to the disciplinary authority on 11.11.2003. Initially, the applicant was charged as under:-

(1) “श्री. एम. एस. इंगळे, यांनी बी बियाणे, रोपे खरेदीमध्ये विहित कार्यपद्धतीचा अवलंब न करता खरेदी करून गभीर वित्तीय अनियमितता केली. त्यामुळे शासनावर रक्कम रु. ४५ लाख या भुर्दंड भरण्याचे उत्तरदायित्व निर्माण केले. त्यात त्यांचा असदभाव दिसून येतो.”

(2) त्यांनी अधीक्षक कृषी अधिकारी पदाची कर्तव्ये व जबाबदारी पार पाडण्यात कसूर केली.

6. Subsequently, additional charge was framed against the applicant on 10.7.2012 as per Annexure A-14 and the said additional charge is as under :-

“श्री. एम. एस. इंगळे, (सेवानिवृत्त) तत्कालीन अधीक्षक कृषी अधिकारी, लातूर हे दिनांक ५.१.१९९३ ते २८.२.१९९५ या कालावधीत कार्यरत असतांना त्यांनी अधिकारी / कर्मचारी संवर्गाच्या बदलीचे आदेश अवेळी / अकाली निर्गमित करून बदली संबंधी नियमांकडे दुर्लक्ष करून अधिकाराचा दुरुपयोग केला.”

Vide order dated 10.7.2012, in the said charge, it was also mentioned as under:-

“श्री. एम. एस. इंगळे यांनी केलेल्या वित्तीय अनियमिततेमुळे शासनावर निर्माण झालेल्या उत्तरदायित्वाच्या रु. ४५ लाख इतक्या रकमेपैकी रु. ३४,४१,५९६/- (रु. चौतीस लाख एकेचाळीस हजार पाचशे शहाण्णव फक्त) तसेच वाहतुकीपोटी शासनास झालेले नुकसान रु. ९५,४९८/- (रु.पंचाण्णव हजार चारशे अठयान्णव फक्त) अशा एकूण रु. ३५,३७,०९४/- (रु. पस्तीस लाख सदतीस हजार चौर्यान्णव फक्त) इतक्या

रकमेची वसुली त्यांच्याकडून महसुली येणेप्रमाणे जिल्हाधीकारी कार्यालयाकडून एक रकमी करण्यात यावी व त्यांचे संपूर्ण सेवानिवृत्ती वेतन कायम स्वरूपी काढून घेण्यात यावे. सदर प्रकरणी मा. उच्च न्यायालयात प्रलंबित असलेल्या फर्स्ट अपील क्र. १२५६/२००५ च्या अर्जावरील मा. उच्च न्यायालयाच्या अंतिम निर्णयानुसार उर्वरित वसुलपात्र रक्कम निश्चित करण्यात येईल."

7. The Enquiry Officer came to the conclusion that the charge Nos. 1, 2 and 3 were proved and as already submitted, recommended action against the applicant on these two charges. It seems that the additional charge was not proved. Accepting the above report of the Enquiry Officer, the Govt. of Maharashtra, after due procedure, has issued an impugned order of punishment dated 30.7.2014 i.e. at Annexure A-17 and hence this O.A.

8. Respondent Nos. 1 and 2 resisted the application by filing an affidavit and additional affidavit and justified the action taken against the applicant. According to the respondents, enquiry was initiated against the applicant on 17.1.1998 and the Enquiry Officer was appointed on 23.7.1999. The Enquiry Report was received by respondent No.2 on 20.12.2003 which was served on the applicant on 30.1.2004. Since the applicant got retired during the pendency of enquiry, major retiral benefits were released to him. However, as regards regularity in the amount which was huge, the

matter was pending before the Hon'ble High Court and thereafter before the Hon'ble Supreme Court. The Hon'ble Supreme Court has directed the Government to deposit 50% of the principal amount of Rs. 1,35,59,708/- claimed by Shri Shristi Nursery who had supplied seeds against the order / letter given by the applicant and, therefore, it took time to finalize and fix the mode of recovery. Thereafter, a second show cause notice was issued to the applicant as per the provisions of Rule 27 of the M.C.S. (Pension) Rules, 1982 on 10.7.2012 and after consultation with General Administration Department of Govt. of Maharashtra, Mantralaya, Mumbai and MPSC and with the approval of the Hon'ble Chief Minister, final order of punishment was imposed on the applicant on 31.7.2014. At the time of retirement, the applicant was working as Joint Director (Sugar Development) in the office of Commissioner of Sugar, Pune.

9. It is further stated by the respondents that the Hon'ble High Court of Bombay in First Appeal No. 1256/2005 vide order dated 22.11.2013 quashed and set aside the judgment of the Trial Court dated 2.12.2004 and a decree was quashed against the Government, but the said suit was remanded to the Trial Court and issues were re-casted. The Shrutu Nursery System Private Limited

approached the Hon'ble Supreme Court by filing Civil Appeal No. 2345/2006 in which the Hon'ble Supreme Court vide order dated 28.4.2006 directed the Commissioner to deposit the amount of Rs. 67,79,854/- i.e. 50% of the principal amount in the Hon'ble High Court of Bombay and the said amount was accordingly deposited. The responsibility of the Commissioner to the tune of Rs. 35,37,094/- was due to misconduct of the applicant. The applicant was, therefore, responsible for financial loss caused to this amount and, therefore, it was necessary to recover the said amount from the applicant. The applicant is guilty of irregularities in the purchase of seeds / plants, which resulted in the liabilities on the shoulder of Commissioner, the applicant without authority and without following financial guidelines and procedure for procurement and without any prior permission from higher authority and also without financial provisions for the same, ordered purchase of seeds / plants with malafide intention and, therefore, the action against the applicant is bonafide.

10. The applicant filed rejoinder affidavit and denied the allegations.

11. Shri Deshmukh, the learned counsel for the applicant submits that the applicant is an officer of Agriculture

Department and was appointed by the Agriculture Department of the Govt. of Maharashtra and, therefore, the appointing authority of the applicant is Agriculture Department of Govt. of Maharashtra and, therefore, entire enquiry against the applicant has been initiated without authority. The learned counsel for the applicant submits that the applicant being the Superintending Agriculture Officer, was empowered to implement the schemes sponsored by the Government and he has issued a letter only in his administrative capacity as regards purchase of seeds / plants and he was not at all involved in any of the purchase directly.

12. The learned counsel for the applicant submits that the Enquiry Officer did not appreciate the evidence with proper perspective and the appreciation of the evidence is perverse to the facts on record. In fact, it is a case of 'no evidence'. The Enquiry Officer has also wrongly interpreted the so-called order alleged to have been issued by the applicant for purchase of seeds / plants dated 25.8.1995 (Annexure A-8). Because of wrong interpretation of the said letter, the Enquiry Officer drew a wrong conclusion. The impugned order is, therefore, illegal, arbitrary, highhanded, irrational and illogical and nothing but total non application of mind



and colourable exercise of powers and, therefore, same is required to be quashed and set aside.

13. The learned counsel for the applicant further submits that there was no financial loss caused at all to the Govt. and the applicant was not involved at all in any manner in causing such financial loss.

14. From the arguments putforth by the learned counsel for the respective parties, the material points under which this matter can be considered are thus:-

(i) Whether the order dated 31.7.2014 issued by respondent No.2 is *void ab initio* illegal inasmuch as respondent No.2 is neither appointing authority nor disciplinary authority of the applicant ?

(ii) Whether it is a case of 'no evidence' against the applicant or;

(iii) whether the appreciation of evidence made by the Enquiry Officer is totally perverse to the facts and evidence on record ? and

(iv) Whether the applicant was responsible for causing any financial loss to the Government as claimed ?

15. So far as the jurisdiction of respondent No.2 in initiating departmental enquiry and passing the impugned order is concerned, it is stated that the respondent No.2 is neither appointing nor disciplinary authority of the applicant. As contemplated under the provisions of M.C.S. (D & A) Rules, 1979 and the M.C.S. (Pension) Rules, 1982. It is stated that the respondent No.2 has no authority to initiate enquiry against the applicant. The learned counsel for the applicant further submits that the impugned order passed by respondent No.2 states that the amount of Rs. 35,37,094/- shall be recovered from the applicant as a land revenue through the Collector office in one installment. It is stated that at time of imposing such punishment dated 31.7.2014, the applicant was not at all in service and, therefore, recovery could have been ordered only as per Rule 27 of the M.C.S. (Pension) Rules, 1982.

16. The learned counsel for the applicant further submits that Rule 27 of the M.C.S. (Pension) Rules, 1982 is the only rule whereby the punishment can be imposed on a Government

servant who has retired. Rule 27 of the M.C.S. (Pension) Rules, 1982 reads as under:-

**Rule 27.** Right of Govt. to withhold or withdraw pension.—(1) Government, may by order in writing, withhold or withdraw a pension or any part of it, whether permanently or for a specified period and also order the recovery from such pension, the whole or part of any pecuniary loss caused to the Govt., if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement.

Provided that, the M.P.S.C. shall be consulted before any final orders are passed in respect of officers holding posts within their purview.

Provided further that where a part of pension is withheld or withdrawn, the amount of remaining pension shall not be reduced below the minimum fixed by the Govt.”

17. The learned counsel for the applicant submits that the amount is not recovered from the pension of the applicant. But it is ordered to be recovered as revenue through Collector office and,

therefore, such order is against the provisions of Rule 27 of the M.C.S. (Pension) Rules.

18. So far as the contention of the learned counsel for the applicant that the respondent No.2 is neither appointing nor disciplinary authority of the applicant. Our attention was drawn to the entries in the service record of the applicant. The extract of the applicant's service book regarding his appointment as Agriculture Supervisor is at page No. 43 (Annexure A-1). The relevant extract of the applicant's service book regarding the appointment in Class-II cadre by the State Govt. is at Annexure A-2 at page No.44. The relevant extract of the applicant's service book regarding his promotion for Class-I and senior Class-I post is at Annexure A-3 at page No.45 and 46 and the relevant extract of the applicant's service book regarding his transfer as Joint Director (Sugar) is at Annexure A-4 at page No.47. From these extracts, it seems that the applicant was initially appointed as Agriculture Officer by the Commissioner of Agriculture and thereafter by the Agriculture Department of Govt. of Maharashtra. Enquiry, however, has been initiated against the applicant by respondent No.2 i.e. the Secretary, Department of Rural Development and Water Conservation and not

by the Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries.

19. The respondents in their affidavit in reply have stated that the department in which the applicant was serving, has been merged with respondent No.2. In para No.4 of the reply affidavit, it has been stated that the applicant's contention that his entire service and service pay scales have been dealt by the Department of Agriculture of Govt. of Maharashtra and that he has nothing to do with the Department of Rural Development and Water Conservation, is incorrect. It is stated that the Soil Conservation Department is part of the Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries before 1992. However, by Govt. Notification No. ROB-1092/CR-30/92/XV III (O&M) dated 5<sup>th</sup> June 1992 as regards amendment in rules of business, the Water Conservation Department had been added and attached with the Department of Rural Development. Accordingly, soil conservation work related subject were added to the Water Conservation Department and it has been empowered to deal with enquiry related subjects allotted. The respondents have placed on record the documents in that regard i.e. Annexure R-1 and R-2. Perusal of these two documents shows that the Department of

Rural Development and Soil Conservation have empowered to initiate departmental enquiry regarding the subjects allotted to them. Integrated Water Shed Area Development programme was part of the department of Soil Conservation work in which the applicant was found guilty and, therefore, the Department of Rural Development and Soil Conservation has conducted the departmental enquiry.

20. It is material to note that, the appellant has faced the entire departmental trial. He was served with the chargesheet. He submitted his statement of defence, witnesses were examined and cross-examined in the departmental enquiry. Not only that, the applicant also examined defence witnesses and a show cause notice was served upon him to state as to why the action shall not be taken against him and therefore, final notice of punishment was also served on him and during this entire procedure. The applicant never objected about the jurisdiction of respondent No.2 to initiate departmental enquiry against him and for the first time in this O.A., he is claiming that the respondent No.2 has no authority to initiate departmental enquiry on the ground that this is a question of law. The respondent No.1 is the State of Maharashtra through Secretary, Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries, Mantralaya, Mumbai and the respondent No.2 is the

Secretary, Department of Rural Development and Water Conservation of Govt. of Maharashtra. Both the respondents have justified the action taken against the applicant and action has been approved by the concerned Ministers and Hon'ble the Chief Minister and as already stated, the applicant never objected for the action against him and, therefore, in such circumstances, the applicant cannot take objection that the respondent No.2 was having no authority to take action against him. Even as per the M.C.S. Disciplinary and Appeal Rules, 1979, any person can be appointed as an Enquiry Officer by the competent authority and it is not necessary that the said officer shall be of a concerned department. The documents filed by the applicant are not sufficient to prove that no authority other than respondent No.1 is his appointing or disciplinary authority. Considering all these aspects; I, therefore do not find any illegality in the action taken by respondent No.2 to initiate departmental enquiry against the applicant.

21. The learned counsel for the applicant submits that it is a case where there is no evidence at all against the applicant and the enquiry officer has wrongly interpreted the letter dated 25.8.2015 (Annexure A-8), P. 53 and 54 (both inclusive). It is further stated that appreciation of evidence is perverse to the fact on

record and in view of this submission, it is necessary to go into the merits of the case, though generally and normally the Tribunal will not go into such details.

22. Charge No.1 alleged to be proved against the applicant is that, the applicant did not adopt the requisite legal procedure while purchasing the seeds / plants and thereby committed financial illegality which is of a grave nature. It is further a charge that the State was required to spend Rs. 45,000,00/- (forty five lac) on account of action on the part of the applicant and the second charge is that while acting as a Superintending Agriculture Officer, the applicant did not perform his duties properly and with proper responsibility.

23. In order to prove such charges referred to above, it is necessary for the department to prove that the applicant was responsible for the so-called purchases of seeds / plants and it must be proved that he was having direct involvements in such purchases.

24. The Enquiry Report has been placed on record which is at page Nos. 92 to 121. As per the list of witnesses to be examined, it seems that one Shri K.N. Sudewar, one Shri T.F.



Pagare and Shri D.V. Amrutkar were to be examined as witnesses in the departmental enquiry. The Enquiry Officer has referred to the evidence while discussing the charger against the applicant. From the evidence of Shri D.V. Amrutkar, Forester, it seems that it was a Central Government scheme to bring various lands under cultivation for cattle grass and for that purpose, seeds and plants were required to be planted. He stated that at the district level, the Divisional Soil Conservation Officer was to implement the said scheme and the Superintending Agriculture Officer was to act as a Controlling Officer. During the cross-examination, this witness admitted that the Deputy Conservator of Forests, Pune had directed the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune and Shruti Nursery Private Limited, Pune to supply the seeds and plants. However, he does not know whether the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune approached the applicant's office for the same. From the entire evidence of this witness, it seems that he was unable to state the exact date on which the applicant had purchased the seeds and plants from Mahila Arthik Magasvargiya Vikas Mahamandal, Pune and whether the applicant was actually involved in such purchase except issuing one letter of so-called recommendation dated 25.8.2015.

25. This witness Shri Amrutkar had stated that while purchasing the seeds and plants, it was necessary to get the agreement executed as regards purchase of seeds and plants, its quality, place of purchase, condition of relevant supply, conveyance etc. He accepted that he did not find any such agreement of the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune and the Govt. had to pay Rs. 95,498/- towards transportation. It is further stated that the rates were also not fixed, though it is stated that the goods were purchased worth Rs. 43,55,433/-, but its market value was Rs. 9,13,837/- only. This witness admitted that he did not get it confirmed from the market nor collected any document in this regard. He further accepted that the guidelines were sought from the Govt. in this regard, but the same was not received. Even if the entire evidence as appreciated by the Enquiry Officer of this witness Shri Amrutkar is accepted, it cannot be said undoubtedly that the applicant was responsible for entering into financial transactions or was responsible for any procedural illegalities as claimed.

26. The applicant has also examined one Shri Vijay Ingale, Joint Director (Sugar Development) as a witness in defence and he stated that all the working was to be considered by the

Divisional Soil Conservation Officer and thereafter the administrative sanction was to be obtained from the Collector.

27. We have perused the Enquiry Report and in our opinion, the Enquiry Officer had come to wrong conclusion that it is the applicant who was responsible for purchase of seeds and plants and that he was the only authority, on whose order the so-called amount was paid to the concerned dealer. From the entire Enquiry Report, it seems that the report is based on interpretation of one document only which, according to the Enquiry Officer, connects the applicant with the so-called irregularities / illegalities. The said document is a letter dated 25.8.2015 (Page 53 and 54).

28. According to the learned counsel for the applicant, the Enquiry Officer has wrongly interpreted and drew a wrong conclusion as regards this letter. He invited our attention to a specific observation / conclusion drawn by the Enquiry Officer as regards this letter and the said conclusions are as under:-

"प्रस्तुत प्रकरणात शासनाचे साक्षिदार, अपचारी अधिकारी यांचे बचावाचे साक्षिदार व विस्तृत बचावाचे निवेदन सादरकर्ता अधिकारी यांचे टाचन, शासनाने दोषारोपाच्या पृष्ठयर्थ सादर केलेली कागदपत्रे इ. चा विचार करून खालीलप्रमाणे निष्कर्ष निघतात.

(१) अपचारी अधिकारी श्री. इंगळे हे दि. ५/९३ ते २९.९.१९९५ या कालावधीत अधिक्षक कृषी अधिकारी, लातूर या पदावर काम करित

होते. व त्यांच्या संभागात लातूर, नांदेड, परभणी व उस्मानाबाद अशा चार जिल्यांचे काम होते. या संभागात ६ डीविजंस व या संभागात १९९५ च्या पावसाळ्यात सलग समतल घराचे १११४ हेक्टर काम करण्यात आले होते व त्या जमिनीवर पावसाळ्यात घायपात सकस तसेच इतर विविध प्रजाती व गवताचे बी-बियाणे यांची लागवड करावयाची होती. प्रथमतः या बी-बियान्यावर रोपाची मागणी उप-संरक्षक, पुणे हे उपलब्ध करून देणार होते. परंतु त्यांच्या काही अटी होत्या (आगाऊ रक्कम इ.) त्याची पूर्तता न झाल्यामुळे व त्यांच्याकडून या वस्तूंचा पुरवठा होते शक्य नसल्याने त्यांनी इतर संस्थांची नावे अ.कृ.अ. लातूर यांना कळविली होती. सदरची योजना जिल्हा स्तरावर विभागीय मृद संधारण अधिकारी यांनी राबवावी असे धोरण होते. त्यासाठी लागणारा निधी सुद्धा विविध योजनांमधून मृ.स.अ. यांनीच विविध स्रोतातून तो उभा करावयाचा होता. कामासाठी प्रशासकीय व तांत्रिक मान्यता ही सुद्धा जिल्हा स्तरावरील अधिकारी /समिती यांनी द्यावी असे अभिप्रेत होते. अ.कृ.अ. लातूर यांची भूमिका ही फक्त संनियंत्रण व समन्वय एवढ्यापुरतीच मर्यादित होती असे एकूण दिसते. परंतु प्रस्तुतच्या प्रकरणात अ.कृ.अ. लातूर यांनी आवश्यकतेपेक्षा जास्त पुढाकार घेतला आहे असे दिसते. ज्या संस्थांकडून ज्या वस्तूंची खरेदी करावयाची होती ती मागणी पावसाळ्यापुर्वीच संबंधित मृ.स.अ. यांनी करावयाची होती. परंतु तसे न होता दि. २५.८.१९९५ रोजी निशाणी पी-७ यांनी अ.कृ.अ. लातूर यांनी माविम पुणे यांचेकडे ही मागणी नोंदविली. या सर्व प्रकरणात सर्वात महत्वाचा दस्तऐवज हाच आहे, अपचारी अधिकारी यांचे म्हणणे असे आहे कि, त्यांनी दिलेले सदरचे पत्र

म्हणजे ही मागणी नाही व त्या फक्त प्रशासकीय सूचना आहे असे त्यांचे म्हणणे आहे. तथापि पत्रातील शब्दरचना पाहता "सोबत जोडलेल्या तक्त्यानुसार लातूर संभागातील वि. म.स.अ. लातूर, उस्मानाबाद, परभणी व नांदेड यांचे कार्यालयात ते जसे निर्देश देतील त्याप्रमाणे संबंधित जिल्यातील विविध उप विभागाला बी बियाणाचा / रोपाचा पुरवठा करावा" असे म्हणले आहे. ही शब्दरचना पाहता व सोबत जोडलेले जिल्हानिहाय विविध प्रजातीसाठी मागणी पाहता सदरचे पत्र म्हणजे मागणी पत्र नव्हे हे म्हणणे योग्य वाटत नाही. सदरचे पत्र पाहिल्यावर कोणत्याही व्यक्तीची अथवा संस्थेची सदरचे पत्र हे मागणी आहे असेच खात्री पटेल. शासकीय व्यवहारात अनेकवेळेस अधिनस्थ अधिकारी यांचेसाठी खरेदी करतांना ती वरिष्ठ स्तरावरून (सेन्ट्रल पर्चेस) अशे पद्धत आहे. त्यामुळे या पत्राचे आधारे माविम या संस्थेने लातूर संभागातील विभागांना पुरवठा सुद्धा मोठ्या प्रमाणावर चालू केला ही बाब विचारात घ्यावी लागेल.

(2) Ekkfoe i qAsyk vf/A{Ad df"A vf/Adkj[h] ykrj ; kauh i = fnyso rs  
 i = ns ; ki phzv-d'-v- ykrj ; kauh fo&fc ; k.As [Ajnh djrkuk fofo/A  
 ifdz k i kj i km.Aj djkjuek dj.Aj i gjoB ; kps fBdk.A] ekykpk  
 ntkj i gjoB ; kpk dkyko/Ah] fofo/A dkyko/Ahr i gjoBk u dY ; kl  
 nMkph vkdkj .Ah ; kckcr djkjuek dj .Asvko' ; d gkr's ekfoe 'Ah  
 'Akl ukusfc&fc ; k.As [Ajnh nj djkjuek dsk uOgrk vl s' Akl ukps  
 l k{Ahnkj ; kauh l k{Ahr uep dsysvkg'srl p ogkrp[hpk [Apz dks/Ah  
 djkok] ogkrp[hckcr eatj nj djkj] fufonk fuf' pr ftYgk nj l ph

iæk.Asogkrnd nj Bjfo.Asb- xksVh vi - vf/A- ; kauh dš; k ukghr-  
vkrk fofoj.Ai =kr n' Afoyš; k oLrq [Ajnh dj. ; kl kBh vkfAZd  
rjrn rjh mi yC/A vkgs dk; ? ; kpkgh R; kauh fopkj dšyk u0grk-  
vi -vf/A- ; kps Eg.A.As vl s vkgs dh] ojhy l oþ ckch xšy kxq  
vkgr- dkj .A R; kauh ekfoeyk fnysysi = Eg.Atsekx .Ahp u0gsvl s  
Eg.Ays vkgs ; k ifjLFArhr funku R; kauh R; kš; k vf/AuLFA  
vf/Adk&; kuk rjh ; kckcrph dk; žkgh R; kš; k Lrjkoj djkoh vl s  
funžA fnysgkrs vl gh fnl r ukgh- R; kešs , dqAp R; kauh fnukad  
25-08-1994 jksth ekfoe yk fnysysi = Eg.Atšfc&fc; k.Asi ğoBk  
[Ajnhl kBh ekx .Ah vkgs gh ckc ukdkjrkp ; šAkj ukgh- R; kuarj  
mi jkDr i = ekfoedMsxš; kuarj] ekfoe usekykpk i ğoBk pkyq  
dšyk o R; kuarj fn-07-09-1995 jksth vi -vf/A- ; kauh i = fnys  
R; ke/; s 05-09-1995 jksth R; kš; k i frfu/Ah' Ah >kyš; k pppk  
l nšAZ fnyk vl q R; ke/; s ?Ak; i kr jki kph ekx .Ah ul u ?Ak; i kr  
l dl R; kauh i kfgtsvl sdGfoys o i š<y fc; k.Asi ğoBk d: u; s  
vl s, dne , dokD; vkysvkgsi .A urj R; kauh fc; k.Asi ğoBk d:  
u; svl suem d: u ; k i =krhy etdğkfo"A; h ful fnX/Ark fuekZA  
gkrs R; kuarj ekfoe usi = i kBfoysvl u {; ke/; svi -vf/A- ; kauh  
l ğokrP; k vkns Akud kj ekykpk i ğoBk dj. ; kr vkyk vkgs vl s  
Eg.Aysvkgsrl p R; kpsi frfu/Ah' Ah >kyš; k pppkgh mYys[A dšyk  
vkgs ekfoe dMq th nš ds i klr >kyh vkgs R; kojhy rkj [Ak  
i gkrk rs, d nš d oxGrk l ožnš dsgh 31-09-1995 lk; ŪrP; kp  
dkyko/Ahph vkgs ; kauh R; kš; k cpkOkP; k fuonsukr v' Ah HAqedk

?Ar-yh vkgsdh] R; kph fn-29-09-1995 jksth >kyh o R; kauh R; kps tkxh vkysys Jh- l qokM v-d-v- ykrij ; kuh ekfoe P; k ifrfu/Al' Ah l xuer d: u [Ak/s fMyhojh pkyku o ns ds i klr d: u ?Ar-yh vkgs- egkeM Gkus i j o Bkp dsk ul Y; keGsgk l ol 0; ogkj Ql ofxjhpk vkgs l qokM ; kuh l xuerkus Ql ofxjhps i dj.A fuekZA dY; kps Eg.Ays vkgs o R; keGs vi -vf/A-; kuh R; kR; keGs 'AkI ukaj 45 yk[Akps mRrjnkf; Ro fuekZA >kys vkgs vFAok ogkropthi k/h >kyY; k HAmZMkl rs tckcnkj vkgs याचा इन्कार केला आहे. या आरोपाबाबत असे दिसते कि, मालाचा पुरवठा झालाच नाही व सर्व व्यवहार हा फसवेगीरीचा आहे अशी बाब अप. अधि. यांनी, साक्षिदारांनी त्यांच्या साक्षिमध्ये कोठेही निर्माण केली नाही. मालाचा पुरवठा झालाच नसता तर ही बाब त्यांना त्यांचे अधिनस्थ अस्केल्या मृद संधारण अधिकारी यांचेकडून सुद्धा वदवून घेता आली असती. परंतु त्यांनी तसे केले नाही व माविमची जी देयके आहेत त्यावर माल पोचल्याबद्दल संबंधित कार्यालयातील अधिकारी / कर्मचारी यांच्या सहयासुद्धा आहेत. त्यामुळे अप. अधि. यांचे माविमने पुरवठा केलाच नाही असे म्हणणे स्वीकारणे अवघड आहे. त्याशिवाय १९९५ च्या पावसाळ्यात लागवडीचा एकंदर कार्यक्रम पाहता या कामासाठी अ.कृ.अ. लातूर या

नात्याने बी-बियाण्याची मागणी अथवा नियोजन वेळीच झाल्याचे दिसून येत नाही. अ.कृ.अ. अथवा त्यांचे अधिनस्थ अधिकारी यांच्याकडून वन खात्याकडे आगाऊ रकमेचा भरणा झाला नाही तसेच बी-बियाणे हे दि. २५.८.१९९५ रोजी म्हणजेच अर्धा पावसाळा संपल्यानंतर नोंदविण्यात आले आहे हे सुद्धा योग्य नव्हते. एकूणच जे काम त्यांच्या अधिनस्थ कर्मचाऱ्यांनी करावे असे अपेक्षित होते ते त्यांही स्वतः अंगावर घेऊन त्यांना एवढी मोठी खरेदी करण्याचे अधिकार नसतांना खारेदिके आदेश माविम पुणे यांना दिले व मोठी वित्तीय अनियमितता करून शासनावर मोठ्या रकमेचे उत्तरदायित्व, वाहतुकीपोटी खर्चाचे उत्तरदायित्व निर्माण झाले असा आहे. त्यामुळे अपचारी अधिकारी श्री. इंगळे, यांचेविरुद्ध लावण्यात आलेला सदरचा दोषारोप सिद्ध होतो."

29. The aforesaid conclusion clearly shows that the entire involvement of the applicant has been concluded on the basis of letter written by the applicant on 25.8.1995. It is, therefore, necessary to see as to what is that letter. The said letter is as under:-



“वन संरक्षक, पुणे यांनी संदर्भ क्र.२ नुसार महिला आर्थिक विकास महामंडळ बी-बियाणे / रोपे उपलब्ध करून घेणेसाठी शिफारस केल्याप्रमाणे सोबत जोडलेल्या तक्त्यानुसार लातूर संभागातील विभागीय मृद संधारण अधिकारी, लातूर, उस्मानाबाद, परभणी, नांदेड व (भूविकवी) लातूर यांचे कार्यालयात ते जसे निर्देश देतील त्याप्रमाणे संबंधित जिल्यातील विविध उप विभागांना बी-बियाणांचा रोपांचा पुरवठा करावा, पुरवठा प्राप्त झालेनंतर बी-बियाणांचे पेमेंट ड्राफ्टणे संबंधित कार्यालये करतील.”

30. If the aforesaid letter is read as it is, it will be clear that there is a reference to the letter issued by the Dy. Conservator of Forests, Pune dated 22.8.1995 and it seems that the Dy. Conservator of Forests, Pune has recommended the seeds / plants to be purchased by the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune and as per his recommendation, the applicant has simply forwarded the list of seeds / plants to be purchased by various offices such as Osmanabad, Latur, Parbhani and Nanded. It was specifically directed to the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune that the seeds and plants shall be supplied to the concerned offices in the District and the Sub-Divisions as per their demand and the payment shall also be received by Mahila Arthik Magasvargiya Vikas Mahamandal, Pune from the concerned offices / Sub Divisions through the demand drafts. The letter was

forwarded to the Dy. Conservator of Forests, Pune, Director of Soil Conservation, Pune and all the concerned offices and Sub-Divisions and they were directed to take further action as per procedure.

31. Plain reading of the aforesaid letter shows that the said letter is nothing but a forwarding letter as per the recommendation made by the Dy. Conservator of Forests, Pune to the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune and nothing can be smelt from this letter as to the fact that the applicant was anywhere responsible for financial loss or procedure to be adopted while purchasing the seeds and plants. At the most, it can be said that the applicant had just forwarded recommendation as directed by the Dy. Conservator of Forests, Pune to the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune and in the entire financial procedure for purchasing the seeds and plants, was to be performed by the concerned offices and Sub-Divisions.

32. The learned counsel for the applicant pointed out to us that even though the letter dated 25.8.1995 was issued and signed on the same day, same has been forwarded to the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune on 6.9.1995 as per Annexure A-7, the entry in the outward register. However, on the

very next day, i.e. on 7.9.1995, the applicant issued telegraphic message to the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune not to supply the goods and to stop the supply of goods immediately. Till that time, only two trucks of seeds were received and rest of the demand was cancelled. Telegram in this regard is at Annexure A.8 at page Nos. 58 and 59.

33. If this correspondence is considered, it will be clear that, though the letter to supply goods / seeds was issued by the applicant in his administrative capacity on the directions of the Dy. Conservator of Forests, Pune on 25.8.1995, he immediately cancelled that demand and this letter was forwarded it to the Mahila Arthik Magasvargiya Vikas Mahamandal, Pune on 6.3.1995 and immediately on the next day i.e. on 7.9.1995, order was cancelled, except of the seeds received in two trucks. Considering this aspect, the applicant cannot be held to be responsible for whatever goods received except two trucks of seeds which were already received till 7.9.1995.

34. Annexure A-8 is a letter dated 25.8.1995, which nowhere states that the applicant was responsible for payment or for order. It simply shows that as per recommendation of the Dy. Conservator of Forests, Pune, the Mahila Arthik Magasvargiya Vikas

Mahamandal, Pune was to supply the goods to various offices and Sub-Divisions as per their demand and the concerned offices and the Sub-Divisions were responsible for the payment. The Enquiry Officer, however, drew following perverse conclusions as under:-

(Page Nos. 118 and 119 of P.B.)

“तथापि पत्रातील शब्दरचना पाहता “सोबत जोडलेल्या तक्त्यानुसार लातूर संभागातील वि. मू.स.अ. लातूर, उस्मानाबाद, परभणी व नांदेड यांचे कार्यालयात ते जसे निर्देश देतील त्याप्रमाणे संबंधित जिल्यातील विविध उप विभागाला बी बियाणाचा / रोपाचा पुरवठा करावा” असे म्हणले आहे. ही शब्दरचना पाहता व सोबत जोडलेले जिल्हानिहाय विविध प्रजातीसाठी मागणी पाहता सदरचे पत्र म्हणजे मागणी पत्र नव्हे हे म्हणणे योग्य वाटत नाही. सदरचे पत्र पाहिल्यावर कोणत्याही व्यक्तीची अथवा संस्थेची सदरचे पत्र हे मागणी आहे असेच खात्री पटेल. शासकीय व्यवहारात अनेकवेळेस अधिनस्थ अधिकारी यांचेसाठी खरेदी करतांना ती वरिष्ठ स्तरावरून (सेन्ट्रल पर्चेस) अशे पद्धत आहे. त्यामुळे या पत्राचे आधारे माविम या संस्थेने लातूर संभागातील विभागांना पुरवठा सुद्धा मोठ्या प्रमाणावर चालू केला ही बाब विचारात घ्यावी लागेल.”

35. In the additional charge, it was alleged that the applicant has issued some orders by ignoring the rules and thereby misused the power. There is nothing on record to show as to what were the rules alleged to be misused by the applicant. In the said

charge, it was stated that the Government will be recovering the amount of Rs. 35,37,094/- in *lump sum* subject to outcome of the First Appeal No. 1256/2005 pending before the High Court. The learned counsel for the applicant has invited our attention to the order passed in First Appeal No. 1256/2005 alongwith Second Appeal No. 11/2010 alongwith Civil Application No. 1479/2011 and the C.A. No. 3630/2012 passed by the High Court of Judicature at Bombay in case of State of Maharashtra V/s Shrusti Nursery and others. The said judgment has been delivered on 22.11.2013 and a copy of the said judgment is at page Nos. 132 to 163 (both inclusive). The operative order in the said appeal is as under:-

“(a) The impugned judgment and decree dated 2<sup>nd</sup> December 2004 is quashed and set aside and Spl. Civil Suit No. 565 of 1999 stands dismissed as against the 2<sup>nd</sup> to 4<sup>th</sup> defendants. However, the suit against the 1<sup>st</sup> defendant stands restored to the file of the Trial Court.

(b) The findings recorded by the Trial Court on the issue Nos. 1, 5 (only as against 1<sup>st</sup> defendant) and 7 are confirmed. However, rests of the findings are set aside.

(c) The suit is remanded to the Trial Court only for the purposes of deciding the claim in the suit as

against the 1<sup>st</sup> defendant. It will be open for the Trial Court to recast the issues, if necessary and permit the parties to lead additional evidence.

(d) We direct the plaintiff and 1<sup>st</sup> defendant to appear before the Trial Court on 23<sup>rd</sup> December 2013 at 11.00 a.m. for fixing the schedule of the hearing.

(e) The Trial Court shall decide the suit as expeditiously as possible preferably by the end of April 2014.

(f) The First Appeal No. 1256/2005 is hereby allowed in above terms with no order as to costs throughout.

(g) First Appeal No. 11 of 2010 stands partly allowed in above terms with no order as to costs throughout.

(h) Writ to be sent to the Trial Court expeditiously alongwith the record of the suit.

(i) The C.A. No. 1479 of 2011 and C.A. No. 3630 of 2012 are disposed of.

(j) We direct that no proceedings shall be initiated against the plaintiff for recovery of the amount permitted to be withdrawn by it under the orders of this Court for a period of three months from today. On expiry of the period of three months from today,

the Registry shall permit the 2<sup>nd</sup> to 4<sup>th</sup> defendants to withdraw the amount lying deposited in this Court with the interest accrued thereon.”

36. It is material to note that, the Govt. of Maharashtra and the Secretary, Agriculture Department were respondent Nos. 2 and 4 respectively and the money decree against them was quashed and not only that they were allowed to withdraw the amount deposited in the Court with interest after expiry of three months period. Thus admittedly, no money decree is passed against the respondent Nos. 2 and 4 and, therefore, it cannot be said that the State has lost any amount and particularly due to negligence on the part of the applicant or because the applicant did not follow the proper financial procedure.

37. From the entire report of the Enquiry Officer, we do not find any document to show that the applicant was at all responsible for issuing any specific order for purchase of seeds / plants or in any manner was responsible for the payment of such order. The order was to be given by the concerned office / Sub-Division and the said offices were responsible for payment. The applicant seems to have only forwarded the recommendation of the

Dy. Conservator of Forests, Pune and, therefore, the interpretation made by the Enquiry Officer that the letter dated 25.8.1995 issued by the applicant is an order for purchasing the seeds and plants, cannot be accepted. Even for the argument sake, it is accepted that the seeds and plants were supplied on the basis of letter dated 25.8.1995, still the applicant cannot be held responsible for the payment for such order, because it was specifically mentioned in the recommendation letter that the seeds and plants shall be supplied as per the demand made by various offices / Sub-Divisions and such concerned offices / Sub-Divisions will be responsible for the payment. Letter dated 25.8.1995, therefore, can be said to be at the most the recommendation letter in view of recommendation made by the Dy. Conservator of Forests, Pune and it cannot be said to be an order for goods. We are, therefore, satisfied that the conclusion drawn by the Enquiry Officer that the said letter is nothing, but the order letter for supply of seeds and plants, is not legal and proper. It seems that there is no *iota* of evidence on record against the applicant except the letter dated 25.8.1995 and the same has also been misinterpreted by the Enquiry Officer and, therefore, the Enquiry Officer seems to have come to a wrong conclusion.



38. As regards charge No.2 that the applicant was serving on the important and responsible post of officer and that it was for him to get the scheme implemented within a stipulated period and to get the process of purchasing duly completed within a stipulated period, it seems to be a vague charge. There is nothing on record to show that, the applicant was in any manner responsible for purchasing seeds and plants and that he was to place the order for such goods or that he was to pay for such purchases. There is nothing on record to show that, the applicant was at all responsible for financial liabilities.

39. In our opinion, the competent authorities while imposing punishment have not considered the aspects discussed in foregoing paras with a proper perspective and the very conclusion that the goods were supplied on the order issued by the applicant, is incorrect. Even for argument sake, it is accepted that the seeds and plants were supplied as per recommendation letter dated 25.8.1995 issued by the applicant, still such letter was issued on 6.9.1995 and on the very next day, the said letter was cancelled and till that time only two trucks of seeds and plants were received and, therefore, in any case the applicant should not have been held responsible for the entire purchase.

40. On a conspectus of discussion in foregoing paras, we are, therefore, satisfied that it is a case of 'no evidence' at all against the applicant and we are satisfied that the Enquiry Officer and the competent authority have not properly interpreted the letter dated 25.8.1995 issued by the applicant and, therefore, conclusions drawn by the Enquiry Officer and the competent authority against the applicant that he was responsible for purchase of goods and that he has committed irregularities / illegalities in such purchase, are against the facts and evidence on record. Hence, we proceed to pass the following order:-

### **ORDER**

- (i) The O.A. is allowed.
- (ii) The impugned order dated 31.7.2014 issued by respondent No.2 stands quashed and set aside.
- (iii) The respondents are directed to extend to the applicant with all consequential benefits including pension and pensionary benefits with retrospective effect from the date of his retirement i.e. from 28.2.1999 to which he is entitled to.
- (iv) The pension and pensionary benefits including the retiral benefits shall be paid to

the applicant within **six months** from the date of this order.

(v) No order as to costs.

(P.N. Dixit)  
Member (A)

(J.D. Kulkarni)  
Vice-Chairman (J)