

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 647 /2016 (D.B.)

Chandrashekar Santoshkumar Vishwakarma,
Aged about 30 years,
R/o Jamkudo, Darekasa,
Tah. Salekasa, District Gondia.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Ministry of Home,
Mantralaya, Mumbai-32.
- 2) The Dy. Inspector General of Police,
Gadchiroli Range, Camp,
Nagpur.
- 3) The Superintendent of Police,
Gondia, Tah. and District Gondia.

Respondents

Shri M.B.Agasthi, Id. Advocate for the applicant.

Shri V.A.Kulkarni, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman &
Hon'ble Shri M.A.Lovekar, Member (J).**

JUDGMENT

Judgment is reserved on 10th Nov., 2022.

Judgment is pronounced on 29th Nov., 2022.

(Per:-Member (J))

Heard Shri M.B.Agasthi, learned counsel for the applicant
and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. Case of the applicant is as follows. Land admeasuring 12 ares from block no. 22 (A-1) at Jamakodo was owned by Laxminarayan Vishwakarma - grandfather of the applicant. The respondent department encroached on this land to construct a compound wall and base camp over it. Santosh Kumar - father of the applicant submitted representations to the respondents to remove the encroachment. He submitted in the alternative that since he had become landless due to said encroachment, one of his family members be given an employment in the respondent department. Remaining family members gave their no objection (A-2) for such employment to the applicant. Instead of giving permanent employment, the applicant was appointed as part time sweeper on temporary basis on fixed monthly pay of Rs. 1200/- by order dated 09.03.2013 (A-3). Tenure of this employment was 11 months. It was extended from time to time (A-4). By communication dated 04.02.2013 (A-5) respondent no. 3 had requested the Inspector General of Police, Mumbai to take appropriate action. The applicant made a representation dated 29.08.2016 (A-6) stating therein as follows:-

“मी वरील अर्जदार नामे श्री चंद्रशेखर संतोषकुमार विश्वकर्मा, मु.जमाकुडो पो. दरेकसा ता. सालेकसा जि. गोर्दिया (महा.) येथील रहिवासी असून आपणांस विनंती करतो की माझी जमीन गट क्रमांक २२, आराजी ०.१२ हे आर.आहे. आपल्या पोलीस विभागाच्या बिल्डींग व कंपाउंड चे काम माझ-या मालकीच्या जमीनीवर सुरु आहे. मला पोलिस अधिका-यांकडून नोकरी देण्याच्या आश्वासनावरून बिल्डींग बांधकामचे काम व कंपाउंड

बांधकामचे काम माझ-या शेतजमीनीवर करण्यात आले आहे. परंतु अजुनही नोकरीचा काही पत्ता नाही.”

Respondent no. 2 issued a letter dated 06.09.2016 (A-7) stating therein as follows:-

“श्री चंद्रशेखर संतोषकुमार विश्वकर्मा, रा. जमाकुडो, पो. दरेकसा, जिल्हा गोंदिया यांनी सादर केलेला अर्ज या कार्यालयात दि. २९.०८.२०१६ रोजी प्राप्त झाला आहे. सादर अर्जाचा थोडक्यात आशय असा आहे की, अर्जदाराचे आजोबा व वडीलांची गट नं. २२ आराजी ११ आर जमीन पोलीस विभागाने बांधकामाकरीता घेतलेली असून त्यांचे वारसांना नोकरी देण्याचे आश्वासन दिलेले होते. परंतु अद्यापर्यंत कोणतीही नोकरी न देता फसवणुक केली आहे. तथापी अर्जदाराने रु. १२०० /- चे मानधन स्विकारण्यास मनाई केलेली आहे. करिता अर्जदाराने आपल्या विभागात त्वरीत स्थायी नोकरी कोणत्याही श्रेणीत प्रदान करणेस विनंती केली आहे. विनंती मान्य न झाल्यास आत्महत्येशिवाय दुसरा पर्याय नाही. किंवा आत्महत्येची परवानगी देण्यात यावी असे नमूद केले असून त्वरित न्याय मिळवून देण्यास विनंती केली आहे.”

The applicant then made a representation dated 31.08.2016 (A-8). Grandfather of the applicant had submitted an application as far back as on 04.09.2006 (A-9) to respondent no. 3 stating therein as follows:-

“महोदय,

सविनय विनंती करता हूँ कि मेरी जमीन मौजा जमाकुडो पो. वरेकसा में नक्षलग्रस्त शसस्त्र दूरक्षेत्र दरेकसा इसमें गट नं. २२ आ. ०.१२ जमिन आपके पोलिस विभाग में निर्माण कार्य में गई. इसके लिये मैं अर्जदार आपसे कई बार अर्ज किया. कि आप मेरे चार बच्चे है. मेरी आर्थिक परिस्थिती ठीक नहीं है. मेरे चारों लडके बेरोजगार है. आप

इनमें से एक को आपके सेवा में ले लिये मैं आपको जमीन दान करने को तैयार हूँ. आपके पूर्व श्री अधिक्षक साहेब से अर्ज किया था इसके पूर्व उन्होंने भी शिफारस किया मा. जिल्हाधिकारी साहेब को, मा. जिल्हाधिकारी साहेब ने कहा की इनके योग्यता के मुताबिक नौकरी दे दिया जाय. ऐसी शिफारस किया लेकिन आज तक कोई उत्तर नहीं मिला मेरी आपसे अर्ज विनंती है की मेरे अर्ज पर विचार कर तुरंत न्याय दिया जाय.”

Hence, this original application for following reliefs:-

- “1. Direct the respondents to grant appointment to the applicant in Class-IV post in Project Affected Category.
2. Direct the respondents not to discontinue the services of the applicant on the post of Sweeper (Temporary) on a honorarium of Rs. 1200/- per month.
3. Grant any other relief which this Hon’ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice.”

3. Reply of respondent no. 3 is at pages 29 to 34. It is his case that temporary appointment given to the applicant has no nexus with the land in question. Said land was wrongly mutated in the name of Laxminarayan. To get over this difficulty Santosh Kumar, father of the applicant, executed a Sale Deed in favour of one Shirvantabai Mohanlal Yele. Correspondence in respect of wrongful mutation (Between Tehsildar and S.D.O.) is at A-R-3-1. Neither the grandfather nor the father

of the applicant has executed a deed of conveyance of the land in question in favour of the respondent department. No assurance was ever given by the respondent department that a member of the family shall be given a permanent employment nor was any recommendation made in that behalf.

4. In his rejoinder at pages 37 to 42 the applicant has maintained that the land was initially owned by Laxminarayan, the respondent department made an encroachment on it, it was not acquired by due process of law, the respondents had assured that someone from the family which was rendered landless would be given a permanent employment in exchange for the land, this was consistent with the policy of the government, and hence the O.A. deserves to be allowed.

5. On behalf of the applicant submissions were made based on the grounds set out in the O.A. and the Rejoinder.

6. Main contention of the applicant is that his ancestral land has been encroached upon by the respondent department. If this submission is to be accepted, remedy lies before Civil Court by filing a suit for recovery of possession. There is nothing on record to connect temporary employment given to the applicant by the respondent department with the alleged acquisition or encroachment made by the

latter. For these reasons the applicant will not be entitled to get any relief. The **O.A. is accordingly dismissed with no order as to costs.**

(M.A.Lovekar)
Member(J)

aps

Dated - 29/11/2022

(Shree Bhagwan)
Vice Chairman

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman
& Hon'ble Member (J).

Judgment signed : 29/11/2022.
on and pronounced on

Uploaded on : 30/11/2022.