

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 794/2019 (S.B.)**

Shri Ram S/o Arun Lanke,  
Aged about 48 years, Occ. Service  
working as Regional Officer, MIDC, Amravati,  
Tah. & Distt. Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Additional Chief Secretary,  
Department of Revenue & Forest, Main Building,  
Madam Cama Marg, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,  
through its Principal Secretary (Industry),  
Department of Industry, Energy & Labour,  
Annex Building, Madam Cama Marg,  
Hutatma Rajguru Chowk, Mantralaya,  
Mumbai-32.
- 3) Chief Executive Officer,  
Maharashtra State Undertaking,  
"Udyog Sarthi", Mahakali Gumfa Marg,  
Andheri (East), Mumbai-400 093.
- 4) Shri R.K. Guthale,  
Aged about – Major, Occ. Service,  
Working as Area Manager, Regional Office,  
MIDC, Mohape, New Bombay-400 701.
- 5) Divisional Commissioner,  
Nagpur Division, Civil Lines,  
Nagpur-440 001.

**Respondents.**

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**Shri D.T. Shinde, Advocate for the applicant.**  
**Shri M.I. Khan, P.O. for respondent nos.1,2 & 5.**  
**S/Shri J.B. Kasat, Vinay Dahat, Advocates for respondent no.3.**  
**None for respondent no.4.**

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**WITH**

**ORIGINAL APPLICATION No. 795/2019 (S.B.)**

Shri Manoj S/o Rameshwarrao Lonarkar,  
Aged about 46 years, Occ. Service  
Working as Regional Officer, MIDC, Nagpur  
Tq. & Dist. Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Additional Chief Secretary,  
Department of Revenue & Forest, Main Building,  
Madam Cama Marg, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,  
through its Principal Secretary (Industry),  
Department of Industry, Energy & Labour,  
Annex Building, Madam Cama Marg,  
Hutatma Rajguru Chowk, Mantralaya,  
Mumbai-32.
- 3) Chief Executive Officer,  
Maharashtra State Undertaking,  
“Udyog Sarthi”, Mahakali Gumfa Marg,  
Andheri (East), Mumbai-400 093.
- 4) Shri B.A. Yadav,  
Aged about – Major, Occ. Service,  
Working as Area Manager, Regional Office-I,  
MIDC, Pune.

**Respondents.**

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**Shri D.T. Shinde, Advocate for the applicant.**

**Shri M.I. Khan, P.O. for respondent nos.1&2.**

**S/Shri J.B. Kasat, Vinay Dahat, Advocates for respondent no.3.**

**None for respondent no.4.**

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**Coram :- Hon'ble Shri Anand Karanjkar,  
Member (J).**

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**Date of Reserving for Judgment : 20<sup>th</sup> November, 2019.**

**Date of Pronouncement of Judgment : 27<sup>th</sup> November, 2019.**

**COMMON JUDGMENT**

**(Delivered on this 27<sup>th</sup> day of November, 2019)**

Heard Shri D.T. Shinde, learned counsel for the applicants, Shri M.I. Khan, Id. P.O. for respondent nos.1&2&5 (in the respective O.As.), Shri J.B. Kasat, learned counsel for respondent no.3 and none for respondent no.4.

2. In both the applications the issues involved are same; therefore, both applications are decided by this common order –

3. Vide order dated 14/8/2009 both the applicants were promoted in the cadre of Deputy Collector, Group-A. The respondent no.1 passed the order dated 9/9/2019 and the applicant Shri Manoj R. Lonarkar was posted as Regional Officer, MIDC, Nagpur on deputation. Similarly Ram A. Lanke was appointed as Regional Officer, MIDC, Amravati on deputation. In pursuance of this order, both the applicants resumed their duties as Regional Officers at the respective places. The respondent no.1 again issued the order of posting dated 16<sup>th</sup> September, 2019 and directed them to join their postings as Regional Officer, MIDC, Amravati/ Nagpur for a period of

one year on deputation. In pursuance of the order the applicants resumed duties at MIDC, Amravati and MIDC, Nagpur.

4. All the Divisional Commissioners and the Collectors / District Election Officers were directed by the respondent no.1 to issue necessary orders to implement the election program. Again the respondent no.1 passed the order dated 13/9/2019 and the applicant Shri Ram A. Lanke was posted as Sub Divisional Officer, Gondia and the applicant Shri Manoj R. Lonarkar was posted as Sub Divisional Officer, Aheri, District Gadchiroli, they were directed to work till completion of the election programme. It is case of the applicants that in pursuance of this order, they joined their respective posts and worked there till completion of the Election Programme and thereafter both the applicants were relieved by the District Election Officer on completion of the Election programme.

5. It is case of both the applicants that in the meantime the Administrative Officer, MIDC, Mumbai passed order dated 26<sup>th</sup> September,2019 and appointed Shri B.A. Yadav to hold additional charge of Regional Officer, MIDC, Nagpur and appointed Shri R.K. Guthale to hold additional charge of Regional Officer, MIDC, Amravati. It is submission of the applicants that after completion of the election programme when they went back to resume their posts at MIDC, Amravati and MIDC, Nagpur, they were not permitted to resume the

duties as the Officers who were holding additional charge refused to hand over the charge to the applicants. As the applicants were not permitted to resume duties after completion of the election work, they both rushed to this Bench with a request to quash the impugned order dated 26/9/2019 passed by the respondent no.1 by appointing the respondent no.4 (in both applications) who were holding the additional charge. It is also prayer of the applicants that the impugned order dated 26/9/2019 passed by the respondent no.3 be stayed.

6. Both the applications are opposed by the respondent no.3 vide reply which is at page no.68 in O.A.794/2019 and page no.55 in O.A.795/2019. The respondent no.3 has contended that in view of the Regulation which is applicable to MIDC, Maharashtra, the respondent nos.1&2 had no authority in law to appoint both the applicants on deputation as Regional Officers. It is contention of the respondent no.3 that as per the MIDC, Regulation, 2012 the authority was vested in the Chief Executive Officer of MIDC, Maharashtra. It is submitted that the respondent no.3 is the Chief Executive Officer and he was the only Competent Authority to make a request to the State Government to fill the post by deputation. It is submitted that as per Clause-13 of the Regulation as no request was made by the respondent no.3 to the respondent nos.1&2 to depute any Officer on the post of Regional Officer, MIDC Nagpur & Amravati, there was no jurisdiction to

respondent nos.1&2 to issue order and appoint the applicants as Regional Officers on the establishment of the MIDC. It is submitted that the postings of the applicants as Regional Officers are per-se illegal and therefore the applicants are not entitled for any relief. It is further contended that this fact was brought by the respondent no.3 to the notice of the respondent nos.1&2 and request was made by the respondent no.3 to the respondent nos.1&2 to cancel the deputation orders of both the applicants. It is submitted that as both the orders of posting on deputation are illegal, therefore, the respondent no.3 is not bound to follow those orders. Hence, both the applications be dismissed.

7. I have heard submissions on behalf of the applicants, the learned P.O. and the learned counsel appearing for respondent no.3. The learned counsel for the respondent no.3 has invited my attention to Clause-13 of the MIDC, Regulation, 2012 which is as under –

**13- ifrfu; ØrtØhjsfu; Ørh&**

*¼, d½ ; k fofu; ekr dkggh uem vl ys rjh vko'; d izkkl dh; @ rka=d fo"k; krhy fu".kkrl  
 l ædhr inkl kBh fofgr vgrki klr] vuttko vl ysyk mesokj egkeMGkdms mi yC/k ul Y; kl  
 egkeMGkrhy xV ^v\* e/khy inkoj xjt.su# kj l {ke i kf/kdkjh ; kauk izkkl dh; o 0; kol kf; d  
 n"Vhdkskrw fopkj d#u jkT; @ dms 'kkl ukrhy vFkok R; kØ; k l koztud mi dækrhy fdeku 8 o"ka  
 l ok >kyŸ; k l w kk; vf/kdk&; kph ue.kod jkT; 'kkl ukP; k ekU; rus tkLrhr tkLr 4 o"ka kBh  
 ifrfu; Ørhusfu; Ørh djrk ; bÿ-*

*lkjrwI adkhr inkp; k l dki dsk fu; ekæ/; srjrm dY; kiæ.kj tðgk vko'; d vgrk o vuMko  
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 menokj mi yC/k gkbjy] rðgk i frfu; Ørtoj vl .kk&; k 0; Drhyk R; kp; k eIG foHkxlyk i jr i kBo.kr  
 ; bly-\*\**

8. After reading Clause-13, I am compelled to say that the language of the Clause is clear and unambiguous, as per this Clause as per the need, authority is conferred on the Competent Authority, i.e., the Chief Executive Officer, to make request to the State Government or the Central Government to appoint their Officers on deputation. In the present case there is no dispute that no request was made by the respondent no.3 to the respondent nos.1&2 to appoint any Officer on deputation on the post of Regional Officer, consequently, I am compelled to say that the respondent nos.1&2 have appointed both the applicants on deputation though there was no request made by the respondent no.3.

9. The learned counsel for respondent no.3 has invited my attention to the Judgment in case of **Gujrat Housing Board Engineers' Association & Ano. Vs. State of Gujrat & Ors., (1994) 2 SCC,24.** The Hon'ble Apex Court in that case considered the provisions of Gujrat Housing Board Services Classification and Recruitment Regulations, 1981 and held that it was not permissible for the State Government to give directions to the Housing Board under Section 82 which were contrary to the Regulation. The action of the

Government was ultra virus because the administrative directions contrary to the regulations were issued. After reading the Regulation of 2012 applicable to the MIDC, it must be accepted that specific provision is made in the Regulation in Clause 13 regarding posting on deputation and procedure is prescribed in Clause 13. In this regard, it is necessary to observe that when Clause 13 of the Regulation has laid down a procedure for filling the post on deputation that procedure cannot be bye-passed. It was authority of the Chief Executive Officer of MIDC, i.e., the respondent no.3 to decide whether it was necessary to fill the post by promotion or direct recruitment or to make request to the Government for filling the post by deputation. In this case no request was made by the respondent no.3 to the respondent nos.1&2 to fill the posts on deputation, consequently, as the postings are made by the respondent nos.1&2 though no request was made by the respondent no.3, the said postings of both the applicants are illegal as in contravention of the Clause 13 of the MIDC, Regulation of 2012.

10. Once it is accepted that the respondent no.1&2 had no authority in law to appoint and post both the applicants as Regional Officer, MIDC, Amravati / Nagpur the consequence is that both the applicants are not entitled to claim any relief against the respondent no.3. It is pertinent to note that this entire situation was brought by the respondent no.3 to the notice of the respondent nos.1&2, but no



action was taken. Under these circumstances, I am of the firm view that no relief can be granted to the applicants because if any relief is granted, then it will continue the illegality. In the result, I do not see any merit in the both the O.As. Hence, the following order –

**ORDER**

Both the O.As. stand dismissed. No order as to costs. In this situation, the respondent nos.1&2 are directed to give immediate postings to both the applicants.

**Dated** :- 27/11/2019.

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**(A.D. Karanjkar)**  
**Member (J).**

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

Name of Steno : D.N. Kadam

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

Judgment signed on : 27/11/2019.  
and pronounced on

Uploaded on : 27/11/2019.