

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 698 of 2019

Smt. Archana Madukar Parlewar,
Age about : 48 Yrs., Occ. – Service,
R/o permanent address of Nagpur, 102, B Swami Sadan Apartment,
Plot No. 596, Chitnavis Layout, Byramji Town, Sadar, Nagpur 440013,
P.S.I. Colony, Arjun Nagar, Amravati, Tah. And Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Department of Urban Development,
Mantralaya, Mumbai-32.
- 2) Director of Town Planning, Maharashtra State,
Central Building, Pune - 1.
- 3) Secretary, Maharashtra Public Service Commission, Mumbai-32.
- 4) Deputy Secretary, General Administration Department,
Mantralaya, Mumbai-32.

Respondents

Shri N.R.Saboo, Id. Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Date of Reserving for Judgment : 15th June, 2020.

Date of Pronouncement of Judgment : 09th July, 2020.

JUDGMENT**(Delivered on 09th day of July, 2020)**

Heard Shri N.R.Saboo, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

2. Applicant was appointed as Town Planner, as per recommendation of MPSC in the batch on 06.09.1999 (P.B., Pg. No. 3, para no. 4.1 of O.A.). The applicant has been awarded punishment by impugned order dated 01.07.2019 (Annexure-A-1, P.B., Pg. No. 42) and aggrieved with this order applicant has approached to this Tribunal. The applicant was placed under suspension vide order of Government of Maharashtra 1507/543/217/07N.V.-27 dated 05.12.2007 (Annexure-A-2, P.B., Pg. No. 51). The applicant was reinstated in service vide G.O.M. order dated 16.09.2008 (P.B., Pg. No. 55). Subsequently, Government decided to start D.E. against the applicant vide order dated 27.06.2008 (Annexure-A-4, P.B., Pg. No. 56). The enquiry report has been submitted by enquiry officer vide letter dated 21.01.2010 (Annexure-A-10, P.B., Pg. Nos. 142 to 183). There were seven charges against the applicant and enquiry officer has arrived to the conclusion regarding charges :-

1. Fully proved.

2. Fully proved.
3. Fully proved.
4. Fully proved.
5. Fully proved.
6. Fully proved.
7. Proved.

3. Respondent Nos. 1 and 2 in affidavit in reply justified order of punishment. Perusal of pleading of applicant in original applicant & reply filed by Respondent Nos. 1 and 2 and following admitted facts are on record –

1. Applicant is in service in the Department since 1999 with unblemished record except present action of D.E. as per charge sheet dated 27/6/08 (Annexure A-4, P.B., Pg. No. 56).
2. Charge as framed in event in charge sheet is alleged to be during the period of applicant from 2/2/07 to 14/4/07, indicating that while holding additional charge of the post Assistant Director of Town Planning, Nagpur, applicant had issued 2 office Circular dated 9/2/07 and 12/2/07 which in the opinion of Respondents was not in conformity of Rule 2.4 (XIII) of D.C. Rule. Respondent by issuing 2nd Charge sheet

dated 19/11/09 added additional instances of grant of NOC during same period of holding additional charge in the said office. It is further alleged that due to this act of applicant Office of Assistant Director of Town Planning, Nagpur granted NOC to some plot owners in the matter recommending permission for conversion of land during said period.

3. Perusal of para 10 of reply of respondents, defense of applicant before Enquiry officer as referred wherein it is specifically pleaded that those 2 Circulars were issued in continuation of the earlier Circular of applicant's predecessors. Applicant also relied on direction issued by his superior Officer i.e. Collector, Nagpur on 9/2/07 (Annexure A-19), in the matter and complied the direction in the process of grant of NOC by office of Assistant Director of Town Planning, Nagpur.

4. It is an admitted fact that the Assistant Director of town planning is only recommendatory Authority and does not have any jurisdiction to sanction the conversion of land to plot owners. It is the Revenue Authority who is competent to sanction such permission.

5. It is matter of record that since 2000, NOC were issued by office of Assistant, Director of Town Planning, Nagpur under various Officers which includes Smt. Pratibha Bhujade, then Assistant Director of Town Planning, Nagpur & it was found that most of NOC were not in compliance of Rule 2.4 (XIII) of D.C. Rule. State of Maharashtra vide

communication dated 18/5/09 No. /TPS/2406/1693 (Annexure A-20) also appointed committee to enquire about such N.O.C. alleged to be in violation of rules issued by office of Assistant Director of Town planning, Nagpur which discloses about jurisdiction of committee to enquire. Accordingly 6 Members of, which comprises Smt. Pratibha Bhujade as one of member, submitted its report at Annexure -22, wherein , various steps involved in the matter of process of granting sanction for conversion of land & grant of NOC by various department is discussed. Report submitted by said Committee discussed that plot holder seeking conversion of land is required to seek NOC from various department which includes office of Assistant Director of Tower Planning, Nagpur. It is pertinent to note that Committee while concluding its report, refer about total 3067 NOC granted by office of Assistant Director of Town planning, Nagpur during the period from 1/1/2000 to 12/4/07 (which include tenure of applicant 2/2/07 to 14/4/07). Said Committee recommended to regularize most of order and further observed that necessary modification in the order can be done as per MRTP Act.

4. Respondent nos. 1 & 2, in their reply para no. 17, P.B., Pg. No. 234 have mentioned that the matter was referred to M.P.S.C. vide letter dated 12.11.2018 and M.P.S.C. gave there concurrence vide letter dated

29.05.2019. After that the impugned order dated 01.07.2019 has been issued.

5. The Departmental Enquiry has been conducted as per laid down procedure and applicant never agitated about the procedure of Departmental Enquiry. Though final show cause to the applicant and reply has neither be filed by respondents nor by applicant on record. However, since as per reply of respondents matter has been referred to M.P.S.C. and concurrence of M.P.S.C. has been taken before awarding punishment to the applicant. It is crystal clear that there is no fault in procedure of Departmental Enquiry.

6. However, Id. counsel for the applicant has relied on the judgment delivered by Supreme Court in the matter of ***Rajendra Yadav vs. State of MP. (2013) 3 SCC 73***. But since this enquiry was only against the applicant; hence, this citation is not applicable to the applicant.

7. In the instant case it appears that a detailed enquiry has been conducted by respondents as per M.C.S. (Discipline and Appeal, Rule, 1979) and all the procedures have been followed including taking concurrence from M.P.S.C.. In view of these facts, I don't find any reason to interfere with the impugned order and O.A. requires to be dismissed. Hence, the following order:-

ORDER

1. The O.A. is dismissed.
2. No order as to costs.

(Shri Shree Bhagwan)
Vice-Chairman

aps

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

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 09/07/2020.

and pronounced on

Uploaded on : 09/07/2020.