

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 139/2022**

Prashant S/o Rajaram Ghodam,  
Aged 30 years, Occ. Service,  
R/o C/o Shri Gajbhiye,  
Godhani Road, Behind New  
Panchayat Samiti, Yavatmal,  
Tq. & Dist. Yavatmal.

**Applicant.**

**Versus**

- 1) State of Maharashtra  
Through Its Additional Chief  
Secretary, Home Department  
Mantralaya, Mumbai-32
  
- 2) The Superintendent of Police,  
Having its office at L.I.C. Chowk,  
Yavatmal, Tq. & Dist. Yavatmal,  
Pin-445001
  
- 3) Sau. Sushma @ Suchita W/o  
Prashant Ghodam,  
Aged 30 years, Occ. Household,  
R/o Police Quarter No.168,  
Building No.11, Darwha Road,  
Yavatmal, Dist. Yavatmal

**Respondents**

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Shri S.P.Palshikar, Ld. counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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**Coram:-Hon'ble Shri M.A.Lovekar, Member (J).**

**Dated: - 12<sup>th</sup> April 2022.**

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## **JUDGMENT**

**Judgment is reserved on 08<sup>th</sup> April, 2022.**

**Judgment is pronounced on 12<sup>th</sup> April, 2022.**

Heard Shri S.P.Palshikar, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant is as follows. The applicant, a Police Constable, and the respondent no. 3 are husband and wife. They have a son. The applicant and respondent no. 3 have been no longer cohabiting. Their son, is staying with his mother, respondent

3. On 24.04.2018 the applicant filed a Petition for divorce in Yavatmal Court. The Court has not passed any order of interim maintenance in the said proceedings. On 18.07.2021 respondent no.3 forwarded an application to Director General of Police, State of Maharashtra, on what'sapp making in it several allegations against the applicant. He asked respondent no.2 to look into the matter. A preliminary enquiry was stated to have been conducted.

Report of said enquiry is not supplied to the applicant. Respondent no.2 has, however, acted on this report and passed the impugned order (Annexure A-2) on 20.08.2021 directing deduction of 33% from gross salary of the applicant and crediting the same to the account of respondent no.3, till further orders. By representation (Annexure A-4) submitted to respondent no.2 the

applicant prayed for recall of the impugned order. From the gross salary of the applicant for the months of September and November, 2021 33% amount has been deducted as shown in pay slips (Annexure A-5, A-6, respectively) which is totally illegal. Hence, this application.

3. Reply of respondent no.2 is at pp. 35 to 38. It is his contention that the applicant has abandoned respondent no.3 and their son, for their shelter and livelihood they need money, he, respondent no. 2, could not have been a mere spectator being the head of the unit and considered from these angles the impugned order does not call for interference.

4. To his reply respondent no.2 has attached the report of preliminary enquiry held against the applicant on the complaint of respondent no.3. The Enquiry Officer concluded that respondent no.3 and the applicant were no longer cohabiting, their son was staying with his mother, they needed money for their basic needs and for these reasons it was appropriate to deduct 33% amount from the salary of the applicant and pay it to respondent no.3 for maintenance of herself and her son.

5. The impugned order is based on complaint of respondent no.3 and the report of preliminary enquiry (Annexure R-1).

6. Shri S.P.Palshikar, learned counsel for the applicant pointed out that in pay slips (Annexure A-5 and A-6) the deduction is shown under the head of "Club fund".

7. The only question that arises for determination is whether the impugned order is supported by any service Rule or provision of law. The answer would be, in the negative. Admittedly, Petition for divorce filed by the applicant is pending in Yavatmal Court. From perusal of the impugned order it can be gathered that in the said Petition no order of maintenance for respondent no.3 and her son is passed. A statement is made to this effect on behalf of the applicant.

8. Respondent no.2 has tried to justify the impugned order on humanitarian grounds. However, the fact cannot be lost sight of that any order which entails civil consequences, like the impugned order does, must be supported by law. The impugned order miserably fails this test. Therefore, it deserves to be quashed and set aside. However, in the facts and circumstances of the case prayer (ii) it cannot be allowed because it would be iniquitous to do so. Hence, the Order.

**ORDER**

- (i) The O.A. is partly allowed in terms of prayer clause (i).
- (ii) No order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 12/04/2022

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

Name of Steno : Raksha Shashikant Mankawde.  
Court Name : Court of Hon'ble Member (J) .  
Judgment signed on : 12/04/2022.  
and pronounced on  
Uploaded on : 12/04/2022.\*\*