

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 566/2022(S.B.)**

Balaji Gangadhar Kendre,  
Aged 45 years, Occ. Service,  
R/o Madhav Nagar, Shegaon Road,  
Telhara, District Akola.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai-32.
- 2) The District Collector, Akola.
- 3) The Sub-Divisional Officer, Akot,  
District Akola.
- 4) Tahsildar, Taluka Telhara,  
District Akola.

**Respondents**

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Shri G.K.Bhusari, Ld. counsel for the applicant.  
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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**Coram:-Hon'ble Shri M.A.Lovekar, Member (J).**  
**Dated: - 29<sup>th</sup> July 2022.**

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**JUDGMENT**

**Judgment is reserved on 26 July, 2022.**

**Judgment is pronounced on 29<sup>th</sup> July, 2022.**

Heard Shri G.K.Bhusari, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the Respondents.

2. Case of the applicant is as follows.

The applicant is working as Talathi at Ukali Bazar Saza. Since 27.04.2022 he was holding additional charge of Talegao Paturda Saza, Babhulgaon and Wangargaon. His record is unblemished. On 05.05.2022 complaint (Annexure A-4) was made against him to respondent no.2 by one Vidya through her husband Manish Fasale. Though the complaint was baseless and malicious respondent no.2 issued a notice (Annexure A-5) to the applicant to remain present before her on 12.05.2022. The applicant submitted a detailed reply (Annexure A-6) to the complaint. Respondent no.3 then issued the impugned order dated 17.05.2022 (Annexure A-2) as per direction of respondent no.2, placing the applicant under suspension. Hence, this application.

3. Reply of respondents 3 and 4 is at pp.81 to 85. According to them, the impugned order was issued only after considering contents of the complaint and reply of the applicant. Audio clip furnished by the complainant was also taken into account. The applicant was placed under suspension because enough material was there to initiate Departmental Enquiry against him. Since the impugned

order was passed in contemplation of initiation of Departmental Enquiry, no interference would be called for.

4. In complaint (Annexure A-4) following allegations were levelled against the applicant-

वरील विषयानुसार आपणांस विनंतीपुर्वक कळवितो की, श्री.केंद्रे, तलाठी यांनी रेती वाहनांची रॉयल्टी चेक न करण्याकरिता मला दरमहा १,००,०००/- (रु. एक लाख) ची मागणी केलेली आहे. ती मी मान्य केली नाही त्यामुळे ऐनकेन प्रकारे मला त्रास देण्यात येत आहे. जसे गावातील लोकांना रॉयल्टी तपासणी करण्यास सांगणे, वाहन अडविणे इत्यादी प्रकार सुरु आहेत.

तसेच हर्षास न झालेल्या वांगरगांव या रेती घाटातून १०-१२ वाहने अवैधरित्या सुरु आहेत. त्या प्रत्येक वाहन धारकांकडून १५,०००/- रुपये महिना हप्ता वसूल करण्यात येते याचा माझ्या घाटावर परिणाम होत आहे. याबाबत मी वरीष्ठांना कल्पना दिलेली आहे. वांगरगांव घाटा चार्ज श्री.केंद्रे यांनी घेतल्या पासून त्यांच्या कृपादृष्टीने या रेती घाटातून आतापर्यंत ६०० ते ८०० ब्रास रेती झाली आहे. संबंधित तलाठी यांची ऑडीओ क्लिप मी आपलेकडे पाठवू शकतो.

5. By communication dated 13.05.2022 (Annexure R-3-1) respondent no.2 directed respondent no.3 as under –

उपरोक्त विषयाला अनुसरून संदर्भिय अर्जानुसार सौ.विद्या मनिष फसाले तर्फे मनिष माणिकराव फसाले यांनी या कार्यालयास तक्रार अर्ज सादर केलेला आहे. सदर तक्रार अर्जानुसार पातुर्डा रेतीघाटातील रेती वाहतुक करणा-या वाहनांची रॉयल्टी चेक न करण्यासाठी बी.जी.केंद्रे तलाठी तळेगांव पातुर्डा ता.तेल्हारा यांनी दरमहा १,००,०००/- (एक लाख रु.) मागणी केल्याबाबत तक्रारीमध्ये नमूद केले

असल्याने संबंधितास नोटीस काढण्यात येवून दिनांक १२/०५/२०२२ रोजी दुपारी १.०० वा. दोन्ही पक्षाची सुनावणी घेण्यात आली.

त्यानुसार सदर सुनावणी दरम्यान तक्रारदार श्री.मनिष फसाले यांनी त्यांचे भ्रमणध्वनीवर (Mobile) ध्वनीमुद्रीत केलेले उपरोक्त विषया संदर्भातील संभाषण ऐकविले. सदर संभाषणामधील आवाज हा श्री.बी.जी.केंद्रे तलाठी यांचे आवाजाशी जुळत असल्याचे प्रथमदर्शनी निदर्शनास आले.

त्याअनुषंगाने आपणास सुचित करण्यात येते की, श्री.बी.जी.केंद्रे तलाठी तळेगांव पातुर्डा ता.तेल्हारा यांना तात्काळ महाराष्ट्र नागरी सेवा शिस्त व अपिल नियम १९७९ चे ४ नुसार निलंबन कार्यवाही करण्यात येवून तात्काळ विभागीय चौकशी प्रस्तावित करण्यात यावी. व त्याबाबतचा अनुपालन अहवाल या कार्यालयास आजच सादर करण्यात यावा.

Pursuant to direction dated 13.05.2022 the impugned order was passed.

6. On the following grounds the applicant is assailing the impugned order-

(A) The complainant Vidya made the complaint not directly but through her husband Manish Fasale.

(B) The applicant had submitted a detailed reply (Annexure A-6) to establish how he was made a scapegoat. Said reply does not appear to have been considered by respondent no.2 while directing respondent no.3 to issue order of suspension against him.

(C) As per orders dated 30.11.2021 and 28.03.2022 (Annexure A-7 collectively) the applicant had fall a Village Vigilance Committee which was working in right earnest, meetings of this Committee were held from time to time, villagers were actually participating in Committee work, vehicles carrying excavated sand illegally were intercepted, seized and booked, such steps had put a break on illegal activities to a large extent and to deter the applicant from continuing to do the good work he was implicated falsely.

(D) Against the person through whom the complaint was made against the applicant i.e. Manish Fasale, Telhara Police had made a complaint to Tehsildar, Telhara that tipper of Manish Fasale bearing no.MH34 AB 8508 was found to carry excavated sand illegally on 30.03.2020, it was detained and about this incident station diary entry no.9/20 was taken.

(E) On 12.05.2022 several villagers from Talegaon, Paturda had made a complaint (Annexure A-9) to respondent no.2 about illegal activities of Manish Fasale like committing theft of illegally excavated sand.

7. According to the applicant, all these circumstances would show that the complaint made by Vidya through her husband

Manish Fasale was patently false and clearly actuated by malafides.

8. In reply, it was submitted by learned P.O. Shri V.A.Kulkarni that the audio clip containing demand of bribe was examined and it was revealed that it contained a voice which matches the voice of the applicant. This was, prima facie, sufficient to show that the complaint was not unfounded. It was further submitted by the P.O. that an opportunity was given to the applicant to put forth his defence and only after considering the same the impugned order was passed.

9. In support of his contention that the impugned order cannot be sustained, the applicant has relied on the judgment dated 20.12.2021 passed by this Tribunal at Principal Seat in O.A.No.422/2020 (Dilip Ravindra Bhosle v/s Commandant S.R.P.F., Navi Mambai). In this case following rulings were relied upon which reiterate the legal position that suspension is not to be resorted to as a matter of rule but only as a last resort.

(1) **1987 (3) Bom.C.R. 327 (Dr.Tukaram Y. Patil Vs. Bhagwantrao Gaikwad & Others.)**

(2) 1991(1) CLR 661 (Devidas T. Bute Vs. State of Maharashtra.)

(3) (2015) 7 SC 291 (Ajay Kumar Choudhary Vs. Union of India)

10. The applicant has also relied on-

*The State of Maharashtra vs. Dr.Subhash Dhondiram Mane. Law Finder Doc Id # 699193.*

In this case it is held-

*Though it is the power of the Petitioner State to place an employee under suspension, the order of suspension is not immune from judicial scrutiny. An employee can always challenge the order of suspension on the ground that it is actuated by malafides, arbitrariness or that it is issued with an ulterior purpose. The suspension order ordinarily should be passed when there is strong prima facie case against the delinquent and if the charges are proved it would warrant an imposition of major penalty. This position has been made clear in the decision rendered by the Apex Court in the case of Union of India & anr. v. Ashok Kumar Aggrawal, reported in 2014 (1) SC] 115.*

11. In the instant case charges against the applicant are quite serious. The impugned order is dated 17.05.2022. It was prima facie found that the audio clip contains a voice matching the voice of the applicant. According to the respondents in this audio clip a voice matching that of the applicant can be heard demanding bribe. Papers show that Departmental Enquiry is contemplated against the applicant. The impugned order is passed under these circumstances. There are no cogent circumstances on record to conclude that the impugned order is either arbitrary or it is actuated by malafides.

11. For the reasons discussed above the application is dismissed with no order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 29/07/2022



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

Name of Steno : RakshaShashikantMankawde  
Court Name : Court of Hon'ble Member (J) .  
Judgment signed on : 29/07/2022.  
and pronounced on  
Uploaded on : 29/07/2022.