

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI****BENCH AT AURANGABAD****T.A. No. 194/1993 (R.C.S. No. 32/1989)****DIST.: NANDED**

**Shri Vishwanath S/o Venkati Bejgamwar,**  
Age: 43 Years,  
R/o Sugaon, Tq. Degloor, Dist. Nanded.

-- **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,**  
Through the Collector,  
Nanded.

-- **RESPONDENT**

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APPEARANCE : Shri Kakasaheb B. Jadhav, learned  
Advocate for the Applicant.

: Shri V.R. Bhumkar, Learned Presenting  
Officer for the Respondent.

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**CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)**  
**AND**  
**HON'BLE SHRI B.P. PATIL, MEMBER (J)**

**DATE : 04.08.2017.**  
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**O R D E R**

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

1. Heard Learned Advocate Shri Kakasaheb B. Jadhav, for the Applicant and Shri V.R. Bhumkar, Learned Presenting Officer (P.O.) for the Respondents.

2. The Applicant had filed R.C.S. No. 32/1989 before the Learned Civil Judge, Senior Division, Nanded, challenging his dismissal from service as Talathi by the order dated 8.12.1977 passed by the Deputy Collector, Degloor, Dist. Nanded. The Appeal against the order dated 8.12.1977 was dismissed by the Collector, Nanded by order dated 2.11.1979 and the second Appeal was dismissed by the Divisional Commissioner, Aurangabad by order dated 2.12.1980. The representation to the State Government in the Revenue and Forest Department was rejected on 20.06.1986. The Applicant is seeking full salary and other benefits till the date of his retirement, now that he has passed the age of superannuation.

3. Learned Advocate for the Applicant has filed written notes of arguments on behalf of the Applicant. The Applicant was appointed as Talathi in the year 1969. While working at Chondi, Taluka Mukhed, Dist. Nanded, he issued a copy of 7/12 extract to one Nivruti Irba in respect of Land Survey No. 37/4/2 situated at village Tudal Khurd, Taluka Mukhed on 30.08.1972. The Deputy Collector, Degloor

issued a charge sheet dated 27.08.1976 alleging that 7/12 extract was issued to Shri Nivruti against the rules. Learned counsel for the Applicant argued that the Enquiry Officer viz. the Tahsildar, Billoli did not give opportunity to the Applicant to defend himself and submitted enquiry report to the Deputy Collector, Degloor on 29.7.1977. On the basis of that report, the Deputy Collector, Degloor, passed the impugned order dated 8.12.1977, removing the Applicant from service. The Collector, Nanded and the Divisional Commissioner, Aurangabad dismissed first and second Appeals. The State Government dismissed the Revision Application without any application of mind.

4. Learned Advocate for the Applicant argued that the Enquiry Officer did not allow the Applicant to cross examine Government witnesses and the Applicant was not allowed to produce his witnesses. The Applicant had issued copy of 7/12 extract to Shri Nivruti as per records available with him. The original record was prepared by the Applicant's predecessor viz. Shri Goplarao, who was not proceeded against departmentally. Original record of 7/12

extract was required to be sent to hand writing expert to determine who has prepared entries in respect of S. No. 37/4/1 and 37/4/2.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant had issued copy of 7/12 extract of S.No. 37/4/2 of village Tudal Khurd. However, there was no such survey number is existence. The Applicant was, therefore, charge sheeted, and a regular Departmental Enquiry under Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 was held against the Applicant. The Applicant was given full opportunity to defend himself. The Applicant was dismissed by a reasoned order by the Deputy Collector, Degloor dated 8.12.1977. The orders of the Collector, Nanded and the Divisional Commissioner, Aurangabad, were well reasoned. The Applicant introduced two new survey numbers i.e. 37/4/1 and 37/4/2 in the Record of Rights. If a survey number is to be divided, it can be done only by the order of the competent authority from Settlement Department. The Applicant has shown as if S. No. 37/4 was already divided

into 37/4/1 and 37/4/2. This was a false claim and he did it without any authority. Applicant had never made any allegation that he was denied opportunity to cross-examine the witnesses in the Departmental Enquiry. Even in his R.C.S. No. 594/1987, also, no such allegation is made. Learned P.O. argued that the scope of judicial review in Departmental Enquiry cases is quite limited. This Tribunal cannot act as an appellate authority. There is no material on record to show that there was any procedural shortcoming in conducting the Departmental Enquiry against the Applicant. That is ample evidence to show that the Applicant issued copy of 7/12 extract in respect of a non-existent survey number. Considering all these facts, this O.A. deserves to be dismissed.

6. We have carefully scrutinized the case papers including Original Regular Civil Suit No. 594/1987, which has been renumbered as T.A. No. 194/1993. There is no specific averment by the Applicant that he was not given an opportunity to cross-examine Government witnesses in the Departmental Enquiry. There is nothing on record to suggest

that the Applicant was denied opportunity to examine defence witnesses. We are unable to accept the contention of the Applicant that he was denied opportunity to defend himself in the Departmental Enquiry.

7. The report of Enquiry Officer viz. Tahsildar, Billoli dated 29.7.1977. It is stated that the Applicant did not file any written statement of defence :-

*“तलाठी श्री विश्वनाथ बेजगमवार यांचे कडून लेखी जबाब दाखल झाला नाही, पण श्री बेजगमवार यांची जबाबी घेण्यात आली.”*

This shows, that the Applicant himself has not filed any written statement of defence. As regards S. No. 37/4/2, it is stated that:-

*“वाद्यस्त तुकडा ३७/४/२ त्याचा ७/९२ श्री निवृत्ती नरवय्या नांवे तलाठ्याने कायम करून नक्कल दिली. तो कायम केल्याचा तुकडे बंदीच्या रेकॉर्ड वरून दिसून येत नाही.*

*श्री बेजगमवार, तलाठी यांचे म्हणणे की, सर्वे नं. ३७/४/२ चा सातबारा गटात होता व त्यावरून नक्कल दिली हे बरोबर नाही.”*

8. In the order dated 8.11.1977, the Deputy Collector, Degloor has noted that:-

*“श्री बेजगमवार याने आरोप पत्र व अभिकथन पत्राचे उत्तर सादर केले नाही. त्यामुळे चौकशी अधिकाऱ्याने त्यांची जबाबी घेवून प्रकरणाचा निर्णय घेण्यात आला.”*

This shows that the Applicant did not give any statement of defence in the Departmental Enquiry, and now it does not lies in his mouth to claim that his side was not heard. He should have submitted his written statement of defence in the Departmental Enquiry. There is no averment in this T.A. that he was not given opportunity to cross examine the witnesses. The order dated 8.11.1977 issued by Deputy Collector, Degloor is a reasoned order and it is concluded in the order that S. No. 37/4/1 and 37/4/2 were created unauthorizely by the Applicant. The order states :-

*“सर्वे नंबर ३७/४ या हिस्साचे दोन हिस्से म्हणजे ३७/४/१ आणि ३७/४/२ असे श्री बेजगमवार तलाठी यांनी करून नवीन पाने ७/९२ त लावली हे स्पष्ट आहे.”*

9. Order in Appeal dated 2.11.1979, passed by the Collector, Nanded has examined the claim of the Applicant that he did not create S. No. 37/4/1 and 37/4/2 and that it was done by his predecessor. Old Record of Rights and Record of Rights after consolidation of land holdings were examined by the Collector in great detail. It was held that the Applicant had issued 7/12 extract of S.No. 37/4/2 to Nivruti against the rules and the order of removal of service

was upheld. The order of Divisional Commissioner, is also a reasoned order and the issue raised by the Applicants have been discussed. It is held that:-

***“The S.D.O. had rejected the contentions of appellant after recording the evidence of Gopalrao also, who had pointed out that the R.O.R. pertaining to S. No. 37/4/1 and S. No. 37/4/2 were not in his hand writing. The S.D.O. held that there was no mutation in respect of S. No. 37/4 during the tenure of Gopalrao as Talathi in Choundi Saza. He has further held in his order dated 8.12.1977 dismissing appellant that appellant himself introduced 2 new S. Nos. i.e. S. No. 37/4/1 and 37/4/2 in the R.O.R. and subsequently without any order of a competent authority in respect of the mutation entry he has given a copy of 7/12 extract of the suit land to Nivrutti Irba.”***

It is clear that the claim of Applicant that he inherited Record of Rights from his predecessor Shri Gopalrao showing S. No. 37/4/1 and 37/4/2 has been rejected by the authorities. There was no mutation entry in respect of these Survey numbers. So on the facts also, the Applicant has



failed to show that findings in Departmental Enquiry against him were perverse.

10. We do not find any material on record to support the contention of the Applicant that Departmental Enquiry against him was not conducted in a proper manner. We also find that his contention that his predecessor Shri Gopalrao has created S. No. 37/4/1 and 37/4/2 was examined by S.D.O., Collector and Commissioner and was rejected. We do not find any material on record to hold that findings in Departmental Enquiry against the Applicant are perverse. We do not find this case which requires interference by this Tribunal.

11. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

**MEMBER (J)**

**VICE CHAIRMAN (A)**