

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.778 OF 2017

DISTRICT:- NANDURBAR/DHULE

(1. Parshuram Sitaram Bramhne,) **Name of Applicant**
(Age : 53 years, Occ. Service) **No.1 is deleted as per**
(as Agri. Supervisor, At T.A.O.,) **order dated 08-03-19**
(Sakri, R/o. 37, Adarshnagar,)
(Sakri, Tq. Sakri, Dist. Dhule.)

2. Raju Chhagan Hire,
Age : 52 years, Occ. Service
as Agri. Supervisor, At T.A.O.,
Navapur, R/o. 112, Vardhamannagar,
Waghewari Road, Nandurbar,
Dist. Nandurbar.

3. Karansing Bondya Tadvi,
Age : 55 years, Occ. Service
as Agri. Supervisor, At T.A.O.,
Akkalkuwa, R/o. 34, Jai Hind Colony,
Taloda Road, Nandurbar,
Dist. Nandurbar.

4. Bhojraj Hiranman Samudre,
Age : 56 years, Occ. Service
as Agri. Supervisor, At T.S.F.,
Nandurbar, R/o. 35, Vijaymohannagar,
Jijamata College Roda, Nandurbar.

...APPLICANTS

V E R S U S

1. The State of Maharashtra,
Through the Secretary,
Agriculture Department,
Mantralaya, Mumbai – 32.

2. The Agricultural Commissioner,
Agricultural Commissionerate,
Maharashtra State, Pune-1.

3. The Divisional Agricultural Joint Director,
Nashik Division, Nashik. RESPONDENTS

APPEARANCE :Shri Sudhir Patil, Advocate for the
Applicants.

:Shri M.P.Gude, Presenting Officer for the
Respondents.

CORAM : JUSTICE A.H.JOSHI, CHAIRMAN

Reserved on : 08-03-2019

Pronounced on : 20-03-2019

ORDER:

1. Heard Shri Sudhir Patil learned Advocate for the applicants and Shri M.P.Gude learned Presenting Officer for the respondents. Perused the record.

2. By this Original Application, applicants have moved this Tribunal for relief as follows:

“B. That the Respondents may kindly be directed to pay to the Applicants, pay and allowances for the period during which Original Application 397/2016 was pending and the Applicants were protected by the interim order of this Hon’ble Tribunal.”

(Quoted from paper book page 10 of O.A.)

3. Foundation of the applicant’s claim can be summarized as follows:

(a) By order dated 22-04-2016, applicants were reverted.

(b) This Tribunal had granted stay a mandatory order dated 28-07-2016 directing to allow the applicants to join duty.

(c) State Government carried interim relief order dated 28-07-2016 before the Hon'ble High Court and filed a bunch of Writ Petitions accompanying Writ Petition No.5743/2016.

(d) Those Writ Petitions were disposed of, however, order passed by this Tribunal was not interfered or set aside.

(e) Ultimately, after hearing the O.As. filed by the applicants and similarly situated persons were dismissed and order of stay/injunction/interim relief stood vacated on 24-03-2017.

(f) Applicants' claim is for payment of salary and allowances for the period for which their services were protected on the higher post i.e. between 28-07-2016 to 24-03-2017.

4. Averments claiming salary and allowances are averred by the applicants in paragraph 10 of O.A., which read as follows:

*“10. That, immediately after passing of the order, on 27.03.2017 and 1.04.2017, the Applicants made applications to the Respondents through their respective Taluka Agriculture Officers and joined the duties, by protecting their rights to approach the Hon’ble High Court. In this representations, they requested the Respondent to release their due Pay and allowances of the period of pendency of the litigation. By now, more than 6 months period has been lapsed, still the Respondents have not released the pay and allowances. The applicants time and again requested the Respondents but in vain. Therefore, it is necessary to direct the Respondents to release the pay and allowances forthwith. Copies of the Applications dated 27.03.2017 and 1.4.2017 are annexed hereto and marked as Annexure **“A-8”**.*

(Quoted from paper book page 8-9 of O.A.)

5. The averment contained in paragraph 10 quoted in foregoing paragraph is replied by the State with long averments contained in paragraph 11 of the reply at paper

book page 111 to 115. Summary of the pleadings of the respondents is as follows:

“Had the applicants filed applications for leave, those would be considered as per the leave due and admissible.”

6. This plea of the State is intelligent, however, it is in open contrast or contradiction with the order of injunction granted by the Tribunal which remained in operation and was even confirmed by Hon’ble High Court.

7. In fact, at the time of disposal of O.A., it was open for the State to have persuaded this Tribunal to pass an order clarifying that the applicants should not be entitled to any benefit of interim relief or any other appropriate relief in favour of State.

8. Moreover, it is not shown that at the time of dismissal of O.As., this Tribunal had directed that the effect of the interim relief shall stand nullified or to treat it as *non est*.

9. In the result, applicants are entitled to the relief of payment of salary and allowances during the period for which interim relief order was in currency and in operation.

Respondents are governed by the principle that 'law and courts do no wrong to anyone'.

10. In the background that, interim relief had remained in force, the prestige of law and courts cannot be annulled by permitting the parties, particularly to the Government to sidetrack and neglect the orders.

11. Praying for restitution is an independent matter but no party has a right analogous to veto to deny or refuse to obey an order of mandatory injunction.

12. In the result, O.A. succeeds in terms of prayer of the applicants quoted in paragraph 2 of the order.

13. In the facts and circumstances of the case parties are directed to bear their own costs.

(A.H.JOSHI)
CHAIRMAN

Place : Aurangabad
Date : 20-03-2019.