

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.334/2023

DISTRICT:- JALGAON

Ramsing Hiralal Sulane,
Age : 57 years, Occ : Service (Sub Divisional Officer),
R/at C/o. Ramesh Sulane,
'Shivkrupa' Vrundavan Nagar,
Nashik, Tq. & Dist. Nashik.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Principal Secretary,
Revenue & Forest Department,
Maharashtra State, Mantralaya, Mumbai-32.

2. The Upper Secretary,
Revenue & Forest Department,
Maharashtra State, Mantralaya, Mumbai-32.

3. The Divisional Commissioner,
Nashik Division, Nashik.

4. The District Collector Jalgaon,
At Jalgaon,

...RESPONDENTS

APPEARANCE :Shri Rahul A. Shinde, Counsel h/f.
Shri D.B.Thoke, Counsel for the
Applicant.
:Smt. Resha Deshmukh, Presenting
Officer for respondents.

CORAM : JUSTICE V.K.JADHAV, MEMBER (J)

Reserved on : 09-09-2024.

Pronounced on : 11-11-2024.

ORDER

1. Heard Shri Rahul A. Shinde, learned Counsel holding for Shri D.B.Thoke, learned Counsel for the applicant and Smt. Resha Deshmukh, learned Presenting Officer for the respondent authorities.

2. By filing this O.A. the applicant is seeking quashing and setting aside the order dated 10-04-2023 passed by respondent no.2, the Upper Secretary, Revenue & Forest Department, Mantralaya, Mumbai thereby suspending the services of the applicant until further orders.

3. Brief facts stated by the applicant giving rise to this Original Application are as follows:

[i] The applicant was working as Sub Divisional Officer/Sub Divisional Magistrate, Bhusawal, Dist. Jalgaon. The applicant came to be transferred from the post of Special Land Acquisition Officer, Jalgaon-1 to the said post of Sub Divisional Officer at Bhusawal vide transfer order dated 06-09-2019. Pursuant to the said order of transfer, the applicant took the charge of the

said post on 07-09-2019 and since then till the date of impugned suspension order dated 10-04-2023, the applicant was holding the said position over there.

[ii] The applicant further contends that Member of the Legislative Assembly from Muktainagar Constituency Shri Chandrakant Patil made complaint with respondent no.4 i.e. District Collector, Jalgaon alleging therein the illegal excavation by one stone crusher owner M/s. Mahalakshmi Stone Crushers. The said stone crusher owner Shri Vilas Laxman Patil allegedly installed the machinery of stone crusher in the agricultural land Gat No.66 located at Village Jalchakra (Kh), Tq. Bodwad, Dist. Jalgaon. The said owner used the stones from the land admeasuring 0.81 R, which is part of land Gat No.28/2/9. It is further alleged that the said stone crusher owner carried out illegal excavation without paying royalty to the State Government and consequently the State Government had suffered huge loss.

[iii] The applicant further contends that accordingly the enquiry committee was constituted which was headed by Deputy Collector (Rehabilitation), Jalgaon and the said committee had submitted its report to

Additional Collector (Minor Minerals Branch) Jalgaon on 22-10-2021. There is nothing adverse against the applicant in the said report and it was proposed to take action by imposing penalty against the stone crusher owner with the further direction to forward the report to Deputy Superintendent of Land Records to find out the exact loss caused to the Government. In consequence thereof the Tahsildar, Bodwad passed an order of imposing penalty of Rs.4,86,28,781/- for the alleged illegal excavation of 4291.21 brass 'khadee' (खडी). Being aggrieved by the said order, stone crusher owner filed appeal before the applicant. After hearing both the sides, the applicant by exercising his quasi-judicial powers allowed the said appeal partially and remitted back the said matter to the Tahsildar Bodwad for hearing afresh by giving an opportunity to the aggrieved party and the complainant in compliance with the rules of natural justice with further direction to decide the matter within further period of 20 days.

[iv] The applicant further contends that on 21-02-2023 the star question was raised by the MLA Shri Chandrakant Patil, Muktainagar Legislative Constituency,

which was replied accordingly. Further, the Tahsildar concerned has passed the necessary orders thereby reducing the amount of royalty/penalty. Said stone crusher owner has filed appeal against the same before this applicant and the said appeal was adjourned for one or another reason.

[v] Applicant submits that MLA Shri Chandrakant Patil again raised the question by invoking Rule 105 of the Maharashtra Legislative Assembly Rules alleging that the officers within the administration tried to safeguard the stone crusher owner and thus the State Government has suffered huge monetary loss. In response to the same Hon'ble Minister of Revenue and Forest Department declared that the necessary enquiry in the matter will be carried out and further directed that the SDO/SDM, Bhusawal will be suspended. Pursuant to the same, respondent no.2 Upper Secretary, Revenue & Forest Department, Mantralaya, Mumbai vide impugned order dated 10-04-2023 by invoking powers under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 suspended the services of the applicant until further orders. Hence, this O.A.

4. Learned Counsel for the applicant submits that the applicant in the capacity as Sub Divisional Officer, Bhusawal has neither protected the said stone crusher owner nor it was within the realm of the applicant to impose penalty for the illegal excavation. It was the right and responsibility of the Tahsildar concerned. Learned Counsel submits that pursuant to the complaint of MLA Shri Chandrakant Patil, third party committee was constituted which has submitted report on 22-10-2021 in which nothing has been recorded against the applicant.

5. Learned Counsel for the applicant submits that on 04-02-2022 the applicant being Sub Divisional Officer while exercising his quasi-judicial powers under section 247 of the Maharashtra Land Revenue Code allowed the appeal partially preferred by the stone crusher owner as he was not offered any opportunity of hearing. Further in the second round of litigation in the appeal preferred under section 247 of the Maharashtra Land Revenue Code, the applicant as Sub Divisional Officer neither granted stay or status quo to the order imposing penalty for illegal excavation and the royalty charged thereon against the stone crusher owner. Learned Counsel for the applicant

submitted that exercising the quasi-judicial power that by itself cannot be said to be any illegal act which would invite suspension.

6. Learned Counsel for the applicant submits that the said stone crusher was installed and in operation since 2010. The applicant had joined the post of Sub Divisional Magistrate, Bhusawal on 07-09-2019. Thus, all sorts of permissions to run the said stone crusher were granted by the higher authorities prior to the joining of the applicant. It is the part of the record that the complaint of the illegal excavation pertains to the year 2017 to December, 2019. The applicant in the capacity as Sub Divisional Officer has never favored the said stone crusher owner. The District Collector has attached the land of the said stone crusher owner and charge was also created for the recovery of the penalty amount for illegal excavation. All the necessary actions are taken against the said stone crusher owner. In spite of the factual and legal position which makes it clear that the applicant in the capacity of SDO/SDM, Bhusawal never directly or indirectly had concern with the operation of the said stone crusher at any point of time. Various committees submitted their reports in which

nothing adverse has been observed against the present applicant. Merely because MLA concerned raised “लक्ष्यवेधी” during the Session, the Minister of Revenue & Forest without verifying the factual position, rather ignoring the same, has declared that the applicant would be suspended which is apparently an action politically motivated. Learned Counsel submits that till date neither any departmental enquiry has been initiated nor suspension order has been revoked. Suspension order passed few months before retirement of the applicant is kind of stigma on his entire unblemished services and therefore impugned suspension order which has been passed illegally and with the political interference is nothing but the colorable exercisable of the powers. It is also one of the grounds raised by the learned counsel for the applicant that the respondents have not taken review of the suspension of the applicant after 90 days and as such, in view of the law laid down by the Hon’ble Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary and Anr.** [Civil Appeal No. 1912/2015 (Arising out of SLP (C) No. 31761/2013, decided on 16.02.2015 continuation of the suspension of the applicant is patently illegal. Learned

Counsel therefore submitted that this O.A. deserves to be allowed.

7. Learned P.O. on the basis of the affidavit in reply filed by the respondents submits that the applicant was holding the post of Administrative head of the Sub Division is responsible for maintaining all the law and order, revenue collections, development of the sub-division and liaison between the district authorities and people in the Sub Division. His revenue duties include supervision and inspection of all the matters from assessment to collection of land revenue; co-ordination of work of all officials in the Sub Division, particularly, in departments of Revenue, Agriculture, Animal Husbandry and public health within the Sub Division. Learned P.O. submits that, it is the matter of record that, Member of the Maharashtra Legislative Assembly Shri Chandrakant Patil, Muktainagar Constituency filed complaint with District Collector, Jalgaon alleging that M/s. Mahalakshmi Stone Crushers carried out illegal excavation during the period from 2017 to December, 2019 on the Class-II agricultural land located at Village Jalchakra, Tq. Bodwad and as a result thereof the State Government has suffered huge loss in terms of

revenue. Further enquiry was conducted by the Committee comprising the Deputy Collector (Rehabilitation), Jalgaon and submitted the report to the Additional Collector (Minor Minerals Branch), Jalgaon. In the said report the concerned officer was asked to take action by imposing penalty against the stone crusher owner under section 247 of the Maharashtra Land Revenue Code and also asked the inspection of the excavation by the Deputy Superintendent of Land Records and to take the legal action in this regard.

8. Learned P.O. submits that on 14-03-2023 the concerned MLA by invoking Section 105 of the Maharashtra Legislative Assembly Rules called attention to the matter of urgent public importance being intimation number 1995 in the budget session of Maharashtra Legislative Assembly which was held in March, 2023. In the said calling attention to matter of public importance he made similar complaint and alleged that the lesser amount of royalty has been charged and the Sub Divisional Officer (i.e. present applicant) and the Tahsildar Bodwad have recovered only the difference amount of royalty and thus there is huge loss of Government revenue and also the

officials of the Revenue Department are trying to protect the stone crusher owner and requested to take action against the officers concerned and to recover the amount of penalty from the said stone crusher owner. The concerned Hon'ble Minister of Revenue and Forest Department while answering the said question declared to take necessary action. Respondent no.2 on 10-04-2023 invoking the provisions of Rule 4(1)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 suspended the applicant until further orders.

9. Learned P.O. submits that the Committee comprising Deputy Collector (Rehabilitation), Jalgaon submitted report to the Additional Collector (Minor Minerals Branch), Jalgaon. In the said report, the concerned officer asked to take action of imposing penalty under section 48(7) of the Maharashtra Land Revenue Code. From the report at Exhibit "B" page No.24 to 33, it reveals that, Sub Divisional Officer (applicant herein) was duty bound to take serious action in time against M/s. Mahalakshmi Stone Crushers to restrain him from committing irregularities and illegalities and thereby causing huge revenue loss to the State Government. Bare

perusal of the report shows that, there is inaction on the part of the applicant being Sub Divisional Officer and Administrative Head of the Sub Division resulting into huge revenue loss and illegal excavation. Learned P.O. submits that, it is a matter of record that even after getting knowledge of illegal excavation by M/s. Mahalakshmi Stone Crushers the applicant left him out from taking any action and also tried to get escape from his responsibilities towards his duties. Learned P.O. submitted that, therefore the action taken by the respondents against the applicant is neither perverse nor illegal. Enquiry report at Exhibit "B" is sufficient to show that the applicant has failed to discharge his duties being Administrative Head of the Sub Division which resulted into heavy revenue losses and illegal excavation. Even applicant failed to take any action against M/s. Mahalakshmi Stone Crushers by invoking powers as Sub Divisional Officer. Learned P.O., therefore, submits that there is no substance in the O.A. and the same is liable to be dismissed.

10. It is a matter of record that Member of the Maharashtra Legislative Assembly from Muktainagar Constituency had filed a complaint with the office of

District Collector, Jalgaon alleging therein that M/s. Mahalakshmi Stone Crushers carried out illegal excavation during the period from the year 2017 to December, 2019 on Class-II agricultural land admeasuring 0.81 R out of land gat no.28/2/9 located at Village Jalchakra (Kh), Tq. Bodwad, Dist. Jalgaon and in consequence thereof the State Government had suffered huge monetary loss in terms of revenue. It is alleged that excavation at the instance of the said Stone Crusher owner was illegal. Admittedly, enquiry was conducted by the committee comprising of Deputy Collector (Rehabilitation), Jalgaon and the said committee had submitted its report on 22-10-2021 (Annexure-B) to the Additional Collector (Minor Minerals Branch) Jalgaon.

11. It is also part of the record that on 14-03-2023 the said MLA by invoking Rule 105 of the Maharashtra Legislative Assembly Rules called urgent attention to the matter of public importance being intimation no.1995 in the Budget Session of the Maharashtra Legislative Assembly held in the month of March, 2023. In the said calling attention similar allegations have been made. It is also alleged that lesser amount of the royalty is charged

and the SDO i.e. the present applicant and the Tahsildar, Bodwad have recovered only difference of amount of the royalty and not the penalty. Thus, there is huge loss of the Government revenue and the officials of the Revenue Department including the applicant and Tahsildar are trying to protect the stone crusher owner. It is, thus, requested to take action against the officer concerned and recover the amount from the stone crusher owner. It appears that the Hon'ble Minister of Revenue and Forest Department declared to take necessary action. In response to the same, impugned order dated 10-04-2023 came to be passed by respondent no.2, the Upper Secretary, Revenue & Forest Department, Mantralaya, Mumbai by invoking powers under Rule 4(1)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 thereby suspending the applicant until further orders.

12. It appears that, on the first complaint filed by the said MLA the Committee headed by the Deputy Collector (Rehabilitation), Jalgaon was constituted and the said committee after thorough investigation into the matter submitted its report on 22-10-2021 (Annexure-B). On careful perusal of the said report dated 22-10-2021, I do

not find any specific adverse finding recorded against the applicant. On the other hand, certain directives have been issued empowering the SDO, Bhusawal to take appropriate action in the matter. Had there been any adverse finding recorded against the applicant there was no reason to give him directions to take appropriate action in the matter.

13. It further appears that on the basis of the said report certain proceedings were initiated against the proprietor of the said M/s. Mahalakshmi Stone Crushers. In this context it further appears that, being aggrieved by the order passed by the Tahsildar in terms of observations made in the report submitted by the committee dated 22-10-2021 Annexure-B, said stone crusher owner has preferred an appeal before the SDO, Bhusawal (Applicant herein). By order dated 04-02-2022 (Annexure-C), the applicant being SDO while deciding the said appeal as a quasi-judicial authority, issued notice to both the parties i.e. M/s. Mahalakshmi Stone Crushers as an applicant and Tahsildar, Bodwad as a respondent and after giving opportunity of being heard to the parties, observed that principles of natural justice have not been followed. Thus, the applicant being SDO, partly allowed the said appeal

and remanded the matter to Tahsildar, Bodwad with the specific direction that the appellant and one objector Shri Amol Vyavahare be given an opportunity of being heard and take appropriate action within 20 days. On the basis of this order, it cannot be inferred that the applicant in any manner has favored the said M/s. Mahalakshmi Stone Crushers. On the other hand, this cannot be treated as an adverse circumstance to proceed and pass the suspension order of the applicant.

14. It further appears that, the said MLA had filed first complaint with the office of Collector, Jalgaon alleging therein that M/s. Mahalakshmi Stone Crushers carried out illegal excavation during the period 2017 to December, 2019 on the said Class-II agricultural land located at Village Jalchakra (Kh), Tq. Bodwad, Dist. Jalgaon. It is the matter of record that, the applicant joined the post of SDO, Bhusawal on 07-09-2019. It is further part of record that on 14-03-2023 the concerned MLA has raised a question of attention to the matter of urgent public importance in the Maharashtra Legislative Assembly Session for the month of March, 2023. It further appears that, in response to the said calling attention question, the Hon'ble Minister for

Revenue & Forest Department has declared to take necessary action. In the backdrop of the said statement made by the Hon'ble Minister for Revenue & Forest Department in the Assembly, it was expected from the respondent authorities to make further enquiry into the matter since the first enquiry conducted by the Deputy Collector (Rehabilitation), Jalgaon on 22-10-2021 (Annexure-B) is silent and no adverse observation is made against the applicant in the said enquiry report to fix responsibility of the applicant or the similarly situated Revenue officers in compliance with the statement made by the Hon'ble Minister for Revenue & Forest Department in the Assembly Session. On the other hand, it appears that in the month of April i.e. within a period of less than a month by the impugned order dated 10-04-2023 the applicant came to be suspended.

15. It is also part of the record that, after remand of the matter to Tahsildar, in terms of the order passed by the applicant, being SDO, Bhusawal, the Tahsildar, Bodwad vide order dated 24-02-2023 directed to recover the amount of penalty with royalty. Thereafter, the said stone crusher owner preferred RTS Appeal under Section 247 of

the Maharashtra Land Revenue Code (MLR Code) before the SDO, Bhusawal i.e. the present applicant. Though notices have been issued to the respondents, as a usual course the applicant neither stayed the impugned order nor granted any status quo. It further appears that, in terms of order passed by Tahsildar, consequent action as contemplated under section 48(7) of the MLR Code came to be initiated and properties belonging to the stone crusher owner were attached. There is no iota of evidence in the form of documents to indicate that the applicant being SDO, Bhusawal has favored the said stone crusher owner.

16. In view of the above, the Tribunal is left with no other choice but to observe that the applicant came to be victimized by colorable exercise of powers vested in the respondents. It is the part of the record that, though the impugned order of suspension came to be passed in contemplation of the departmental enquiry, till the date of retirement of the applicant i.e. till 31-05-2023, no departmental enquiry came to be initiated against the applicant.

17. Though the applicant is now a retired employee, however, the said order of suspension would remain as a

stigma in his service career. I am thus inclined to allow the O.A. Hence, the following order:

O R D E R

- [i] Original Application is hereby allowed and disposed of.
- [ii] Order dated 10-04-2023 passed by respondent no.2, the Upper Secretary, Revenue & Forest Department, Mantralaya, Mumbai thereby suspending services of the applicant is hereby quashed and set aside.
- [iii] The applicant is entitled for consequential permissible benefits.
- [iv] In the circumstances, there shall be no order as to costs.

MEMBER (J)

Place : Aurangabad
Date : 11-11-2024.