

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO. 1080 OF 2016

DISTRICT : SOLAPUR

Dr. Yevasep G. Jagtap.)
Age : 56 Yrs, Working as Medical Officer,)
Public Health Centre, Shirapur, Tal. Mohol)
Dist : Solapur and residing at 54, Aakash)
Residency, Rhutu Vihar Nagar, Majarewadi)
Solapur.)...**Applicant**

Versus

1. Dr. Shitalkumar Jaddhav.)
The District Health Officer, Z.P,)
Solapur.)
2. The Chief Executive Officer.)
Zilla Parishad, Solapur.)
3. Dr. Shashikant Kulkarni.)
District Programme Manager,)
Solapur.)
4. Smt. Vaishali Thorat.)
Taluka Accountant in the Office of)
Taluka Health Officer, Tal. Mohol,)
Dist : Solapur.)
5. Shri Shivaji Salunkhe.)



- Taluka Accountant in the office of)
 Taluka Health Officer, Tal. Mohol,)
 Dist : Solapur.)
6. Dr. Mulla.)
 Medical Officer, Public Health)
 Centre Anagar, Tal. Mohol,)
 District : Solapur.)
7. The State of Maharashtra.)
 Through Principal Secretary,)
 Public Health Department,)
 Mantralaya, Mumbai - 400 032.)...**Respondents**

Mr. A.V. Bandiwadkar, Advocate for Applicant.

Mr. Ashok Misal, Advocate for Respondents 1 to 3 and 5 &

6.

Mrs. A.B. Kololgi, Presenting Officer for Respondent No.7.

PER : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 05.06.2017

JUDGMENT

1. This Original Application (OA) brought by a Medical Officer questioning the validity of the order dated 27.10.2016 issued by the Respondent No.1 – The District Health Officer, Zilla Parishad, Solapur (Exh. 'A', Page 16 of the Paper Book (PB)) whereby, additional charge of D.D.O. was withdrawn from the Applicant and given to the 6th



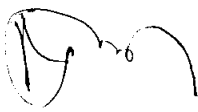
Respondent – Dr. S.S. Mulla.

2. I have perused the record and proceedings and heard Mr. A.V. Bandiwadekar, the learned Advocate for Applicant, Mr. Ashok Misal, the learned Advocate for Respondents 1 to 3 and 5 & 6 and Mrs. A.B. Kololgi, the learned Presenting Officer for Respondent No.7.

3. The Respondent No.4 – Smt. Vaishali Thorat, District Accounts Manager is neither present nor represented.

4. The record would show that, by an order of 20.8.2013 (Exh. 'R-1', Page 141 of the PB) issued by the 2nd Respondent – The Chief Executive Officer, Z.P, Solapur, the Applicant was given additional charge of the post therein mentioned. This order was issued, it may be repeated, not by the State Government or by the State Government's permission by the CEO. This charge was withdrawn vide the impugned order issued by the District Health Officer and not even by the CEO. As already hinted above, it is this order which is being questioned herein.

5. There is a GR issued by the Public Health Department of the State of Maharashtra on 28th March,


A handwritten signature in black ink, appearing to be 'R. M.', is written above a horizontal line.

2012. The same needs to be reproduced as to its substantial part for better grasp and understanding (in Marathi).

“शासन निर्णय :

उपरोक्त संदर्भित क्र.२ वरील शासननिर्णयान्वये मुख्य कार्यकारी अधिकारी, जिल्हा परिषद यांना त्यांच्या जिल्ह्यांतर्गत कार्यरत स्थायी वैद्यकीय अधिका-यांच्या बदल्या करण्याचे व अस्थायी बी.ए.एम.एस. वैद्यकीय अधिकारी यांच्या नियुक्त्यांचे असलेले अधिकार या शासन निर्णयान्वये रद्द करण्यात येत आहेत. जिल्हा परिषदेअंतर्गत असलेल्या आरोग्य संस्था व अन्य कार्यालये / आस्थापना यामध्ये शासन आदेशान्वये नियुक्त झालेले वैद्यकीय अधिकारीच कार्यरत राहतील, कोणत्याही परिस्थितीत त्यांची अन्य ठिकाणी बदली करता येणार नाही.

२. जिल्हा परिषदेअंतर्गत कार्यरत असलेल्या वैद्यकीय अधिका-यांचे कामकाज समाधानकारक नाही. या कारणास्तव जिल्हा आरोग्य अधिकारी / सहाय्यक जिल्हा आरोग्य अधिकारी / अतिरिक्त जिल्हा आरोग्य अधिकारी अथवा अन्य कोणत्याही वैद्यकीय अधिका-याचा कार्यभार काढून तो अन्य अधिका-याकडे शासनाच्या पूर्वपरवानगी शिवाय परस्पर सोपविता येणार नाही.

३. प्राथमिक आरोग्य केंद्रातील वैद्यकीय अधिकारी यांच्या कामकाजाबद्दल तक्रारी असल्यास संबंधित जिल्हा परिषदांचे मुख्य कार्यकारी अधिकारी यांनी अशा वैद्यकीय अधिका-यांकडील कार्यभार काढून घेऊन त्यांना पुढील पदसंस्थापनेकरीता संबंधित उपसंचालक, आरोग्य मंडळ यांचेकडे पाठवू नये. संबंधित मंडळाच्या उपसंचालकांना अशा वैद्यकीय अधिकारी ते जिल्हा आरोग्य अधिकारी यामधील कोणत्याही वैद्यकीय अधिका-यासंबंधात जिल्हा प्रशासनाच्या काही तक्रारी असतील तर, त्या संदर्भातील तक्रारीबाबत मुख्य कार्यकारी अधिकारी, जिल्हा परिषद यांनी प्राथमिक चौकशी करावी व त्यात तथ्य आढळल्यास आपल्या अभिप्रायासह प्रस्ताव त्वरील शासनास सादर करावा. त्याचबरोबर तक्रारीचे स्वरूप गंभिर असल्यास व कर्तव्यापासून दूर ठेवण्याचे गरजेचे असल्यास शासनाकडून त्याबाबत योग्य ती कार्यवाही होईपर्यंत जिल्हा परिषदेच्या मुख्यालयात संबंधित वैद्यकीय अधिका-याची



पदस्थापना ठेवण्यात यावी व शासनाकडून पुढील पदस्थापनेबाबत सात दिवसात आदेश घ्यावेत. त्यावर योग्य ती कार्यवाही आरोग्य विभागामार्फत तत्परतेने करण्यात येईल. मुख्य कार्यकारी अधिकारी, जिल्हा परिषद यांनी व्यक्तीशः याबाबत दक्षता घ्यावी.”

6. Once having reproduced the said contents of the GR, I do not think, it is necessary for me to make any further elaboration. The record bears out that the requirements of the GR have not been complied with and for that, I do not have to do anything more than fall back upon the Affidavit-in-reply on behalf of the State – Respondent No.7 filed by Mr. Satish H. Bhosale, Under Secretary, Public Health Department. Para 2 thereof has made clear averments to the effect that the act herein impugned was done without the permission of the Government which was required in the matter of grant of additional charge.

7. Mr. Ashok Misal, the learned Advocate for the Respondents 1 to 3 and 5 & 6 pointed out to me that, even the initial grant of additional charge was not done in accordance with the GR and the learned Advocate probably wanted to contend that, it does not lie in the mouth of the Applicant now to raise the question only about the additional charge. It is not possible for me to concur with the learned Advocate Mr. Misal because bound as I am by



the scope of the OA, such as it is, the grant of additional charge is not being questioned by anybody and its withdrawal is the subject matter of challenge. It will be open to the authorities concerned to take whatever steps they want to take once they restore the position such as it was on the date of issuing of the impugned order. But as the things stand, the said state of affairs will have to be restored. Nothing more needs to be added.

8. The order herein impugned stands hereby quashed and set aside. The additional charge which the Applicant was divested of be restored to him within a period of four weeks from today. The Original Application is allowed in these terms with no order as to costs. Hamdast.

Sd/-

(R.B. Malik)
Member-J
05.06.2017

Mumbai

Date : 05.06.2017

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2017\6 June, 2017\O.A.1080.16.w.6.2017.Withdrawal of Addl. Charge.doc