

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 340/2024 (S.B.)**

Ku. Deepmala Pralahad Telgote,
Aged about 39 years,
Occu.: Service as Talathi,
R/o Akot, Tah. Akot, District - Akola.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue Department,
Mantralaya, Mumbai - 32.
- 2) The Divisional Commissioner,
Amravati Division, Amravati.
- 3) The Collector, Akola,
District - Akola.
- 4) Sub Divisional Officer,
Panchayat Samiti Akot,
Tah. Akot, District- Akola.
- 5) The Tahsildar, Akot,
Tah. Akot, District- Akola.
- 6) Tahsildar, Telhara,
Tahsil Telhara, Dist. Akola.

Respondents

Shri R.D.Karode, Id. Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 09th July, 2024.

Judgment is pronounced on 16th July, 2024.

Heard Shri R.D.Karode, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. Case of the applicant is as follows. As part of her duty she, along with Kotwal Ardale, on receiving secret information, went to the bank of Van river on 04.09.2023 around 5 a.m., intercepted a Tractor/Trolley which was found to carry illegally excavated sand and lodged F.I.R. against three persons leading to registration of offence under sections 379, 353/ 34 I.P.C. and 48 of Maharashtra Land Revenue Court, 1966, at Hiwarkhed Police Station. After departmental correspondence respondent no. 3 wrote a letter dated 20.10.2023 (A-4) to respondent no. 2 as follows:-

उपरोक्त विषयांचे अनुषंगाने सादर करण्यात येत आहे की, उपविभागीय अधिकारी, अकोट यांचा विषयांकीत प्रस्ताव या कार्यालयास प्राप्त झालेला असून त्यामध्ये असे नमूद केले आहे की, कु. डी.पी. तेलगोटे, तलाठी मौजे सौंदळा यांचेकडे शेतकरी व नागरीक शासकीय कामा करिता कागदपत्रे / दाखले मागण्यास गेले असता त्यांना सदरचे कागदपत्रे देण्यास कामचुकारपणा करतात, विचित्र भाषा व चुकीची वागणुक देतात, उडवाउडवीचे उत्तरे देतात, शेतक-यांना उद्धट वागणुक देतात, फौजदारी गुन्हा दाखल करण्याच्या धमकी देतात, अशा कित्येक तक्रारी ग्राम पंचायत मध्ये आल्यामुळे ग्राम पंचायत वारखेड व शेतकरी यांनी त्यांची बदली करण्याबाबत विविध तक्रारी केलेल्या आहेत, तसेच श्री अमोल डिगांबर तिखट, रा. वारखेड, श्री

राधेश्याम केशवराव म्हसाये, रा. वरखेड, श्री शिवाजी उत्तमराव सोनटक्के, रा. सौंदळा यांचे विरुद्ध कु. डी.पी. तेलगोटे, तलाठी मौजे सौंदळा पोलीस स्टेशन हिवरखेड येथे रेतीची चोरी केल्या बाबत खोटे गुन्हे दाखल केलेले आहेत, सदरचे गुन्हे मागे न घेतल्यास शेतकरी रस्ता रोको आंदोलन किंवा आमरण उपोषण करणार असल्याचे नमुद केले आहे.

सदर तक्रारीचे अनुषंगाने तहसिलदार तेल्हारा यांनी सुनावणी घेवून सर्वसंबंधीताचे म्हणणे ऐकून घेतले आहे, सुनावणीस संबंधित तक्रारदार तसेच मौजे सौंदळा व वारखेड येथील शेतकरी, जि.प. सदस्य सुध्दा उपस्थित होते, त्यांनी कु. डी.पी. तेलगोटे, तलाठी मौजे सौंदळा यांची तात्काळ मौजे सौंदळा येथून बदली करणेबाबत विनंती केलेली आहे.

सदर परिस्थितीचे गांभीर्य लक्षात घेता सदर तलाठी यांची मौजे सौंदळा या ठिकाणावरून इतरत्र बदली करणे आवश्यक असल्याने त्यांना मौजे शिवाजीनगर, येथे बदली करण्याबाबत उपविभागीय अधिकारी, अकोट यांनी प्रस्तावीत केलेले आहे.

एकंदरीत कु.डी.पी. तेलगोटे, तलाठी मौजे सौंदळा यांचे विरुद्ध दाखल तक्रारी व जनतेचा रोष पाहता तसेच त्यामधून कोणताही अनुचीत प्रकार घडून कायदा व सुव्यवस्थेचा प्रश्न निर्माण होवून नये या करीता त्यांची मौजे सौंदळा येथून तात्काळ बदली करणे आवश्यक असल्याने महाराष्ट्र शासकीय कर्मचा-यांच्या बदल्यांचे विनियमन आणि शासकीय कर्तव्ये पार पाडतांना होणा-या विलंबास प्रतिबंध अधिनियम 2005 मधील नियम 4(4) (दोन) (5) अन्वये अकोट उपविभागातील रिक्त तलाठी साझावर बदली करण्यास मान्यता मिळण्याकरीता प्रस्ताव करण्यात येत आहे.

करीता मंजूरीस सादर.

By letter dated 10.11.2023 (A-A-5) respondent no. 2 directed respondent no. 3 to forward the proposal of transfer of the applicant afresh with recommendation of Civil Services Board as per G.R. dated

11.02.2015. On 20.02.2024 respondent no. 3 passed the impugned order (A-A-9) which reads as under:-

संदर्भ :-

1. या कार्यालयाचे पत्र क्र. कक्ष-1/त. आस्था/कावि-550/2023 दिनांक 20/10/2023
2. उपविभागीय अधिकारी, अकोट यांचे पत्र क्र. उविअ/आस्था/कावि-375/2023 दि. 15/09/2023
3. उपविभागीय अधिकारी, अकोट यांचे पत्र क्र. उविअ/आस्था/कावि-429/2023 दि. 16/11/2023 (चौकशी अहवाल)

आदेश

ज्याअर्थी, कु.डी.पी.तेलगोटे, तलाठी मौजे सौंदळा यांचे विरुद्ध दाखल तक्रारअर्जाचे अनुषंगाने त्यांची बदली मौजे सौंदळा या ठिकाणावरून इतरत्र करणे आवश्यक असल्याने तसा अहवाल उपविभागीय अधिकारी, अकोट यांनी संदर्भ क्र. 2 व 3 चे पत्रानुसार सादर केलेला आहे.

आणि ज्याअर्थी, कु.डी.पी. तेलगोटे, तलाठी मौजे सौंदळा यांची तातडीने बदली करणे आवश्यक असल्याने मा.विभागीय आयुक्त अमरावती यांना पुर्वमान्यते करीता संदर्भ क्र. 1 नुसार प्रस्ताव सादर करण्यात आलेला आहे.

त्याअर्थी, महाराष्ट्र शासकीय कर्मचा-यांच्या बदल्यांचे विनियमन आणि शासकीय कर्तव्ये पार पाडतांना होणा-या विलंबास प्रतिबंध अधिनियम 2005 मधील नियम 4 (4) (दोन) अन्वये मा.विभागीय आयुक्त अमरावती यांना संदर्भ क्र. 1 नुसार सादर करण्यात आलेल्या प्रस्तावास अधिनराहून कु.डी.पी.तेलगोटे, तलाठी मौजे सौंदळा यांची मौजे देवडा ता अकोट या साङ्यावर प्रशासकीय कारणास्तव बदली करण्यात येत आहे.

(अजित कुंभार, भा.प्र.से.)
जिल्हाधिकारी अकोला

प्रतिलिपी -

1. मा. विभागीय आयुक्त, अमरावती विभाग, अमरावती (आस्थापना विभाग) यांना संदर्भ क्र. 1 नुसार कार्योत्तर मंजूर करीता सविनय सादर.

2. उपविभागीय अधिकारी, अकोट/.....यांना माहिती तथा उचीत कार्यवाहीस अग्रेषीत.

3. तहसिलदार,यांना माहिती तथा उचीत कार्यवाहीस अग्रेषीत. त्यांनी सदर कर्मचा-यास कार्यमुक्त करून/रुजू करून घेवून अनुपालन अहवाल या कार्यालयास सादर करावा.

4. कु.डी.पी.तेलगोटे, तलाठी, मौजे सौंदळा (मार्फत तहसिलदार अकोट) यांना माहिती तथा उचीत कार्यवाहीस अग्रेषीत. त्यांनी सदरचे आदेशाप्रमाणे तात्काळ रुजू होवून अनुपालन अहवाल या कार्यालयास सादर करावा.

3. It is the contention of the applicant that the impugned order cannot be sustained because before passing the same respondent no. 3 had not complied with the direction contained in letter of respondent no. 2 dated 10.11.2023 (A-A-5) to forward the proposal afresh after complying with G.R. dated 11.02.2015, and the impugned order was actuated by malafides because of initiative taken by the applicant which led to registration of offence relating to illegal excavation of sand, at Hiwarkhed Police Station.

4. Respondents 3 and 4 have resisted the O.A. principally on the ground that the applicant had misled the Tribunal to obtain interim order and such conduct shall suffice to dismiss the O.A.. Order at A-R-3-I

shows that the applicant joined at Tahsil Office, Akot on 06.03.2024. Instant O.A. was filed on 01.04.2024. The matter came up for hearing for the first time on 02.04.2024. Though on 02.04.2024 interim order was not passed, liberty to press for the same on the next date was given. On 08.04.2024 following order was passed:-

4. *According to the applicant, respondent no. 3 did not act as per the direction contained in letter dated 10.11.2023 and directly proceeded to pass the impugned order. He further submits that the applicant is not yet relieved.*

5. *By order dated 02.04.2024, Id. P.O. was directed to take instructions and make a statement with regard to aforesaid contention of the applicant. Today Id. C.P.O. has made a statement that no information is received from the department as directed by this Tribunal. Considering facts of the case and especially the ground mentioned above effect and implementation of the impugned order deserves to be stayed till the returnable date. **The effect and implementation of the impugned order of transfer of the applicant is stayed till the returnable date i.e. 18.04.2024.***

The interim order subsisted till it was vacated by order dated 21.06.2024 which reads as under:-

2. *Para no. 4 of this Civil Application (for vacating interim order) reads as under:-*

"4. It is necessary to point out to this Hon'ble Tribunal, in view of the above reliving to the applicant, the applicant came to be joined on 06.03.2024 at Tahasil Office, Akot Tq. Akot Dist. Akola. The copy of the above joining report is annexed as Annexure-R3-II. Thereafter, the respondent no.5-the Tahasildar, Akot directed the applicant to receive the additional charge of Mauje Deverda Tq. Akot Dist. Akola from Talathi Shri. S.K. Chikar of Mauje Danori, Tq. Akot, Dist.Akola and submit the report to the respondent no.5. The copy of order dated 06.03.2024 of

respondent no.5 is annexed as Annexure-R3-III. The said fact has been suppressed by the applicant and thus there has been an attempt on part of applicant to mislead this Hon'ble Tribunal and obtained ex-parte interim order dated on 08.04.2024 and 18.04.2024. The applicant has preferred the above O.A. before this Hon'ble Tribunal on 01.04.2024 without disclosing the relevant facts from this Hon'ble Tribunal, in view of the above facts, it is clear that the applicant has not approached before this Hon'ble Tribunal with clean hands."

3. *It is pointed out that this O.A. was filed on 01.04.2024 and before filing of the O.A. the applicant had already joined at Tahsil office, Akot.*

4. *Effect and implementation of the impugned order dated 20.02.2024 (A-9) was stayed by order dated 08.04.2024. In view of contents of para 4 of this Civil Application which have gone un rebutted the interim order deserves to be vacated. **C.A. is allowed in terms of prayer clause (i).***

5. It was strenuously urged by Id. P.O., Shri M.I.Khan that on the sole ground of conduct of the applicant i.e. misleading the Tribunal to obtain interim order of stay to the effect and implementation of the impugned order though said order was already implemented, the O.A. deserves to be dismissed. There is merit in this submission. In **Pradeep Kumar Srivastava & 2 Ors. Vs. Vishal Singh & Chief Executive delivered on 19th June, 2020, AIRONLINE 2020 ALL 1316** it is held:-

A person who approaches the court must come with clean hands and put forward all the material facts otherwise he shall be guilty of misleading the court and his application or petition may be dismissed at the threshold. If an applicant makes false statement and suppresses material facts or attempts to mislead the court, the court may dismiss action on that ground alone.

6. In view of aforesaid factual and legal position, the **O.A.** **is dismissed with no order as to costs.**

Member (J)

Dated :- 16/07/2024
aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 16/07/2024
and pronounced on

Uploaded on : 17/07/2024