

MHAU080013832025



ORDER BELOW EXH. 01 IN CRI. M .A. NO. 125/2025
(Ganesh Shankarpelli Vs. State of Maharashtra & Ors.)

Applicant Ganesh Shankarlal Shankarpelli filed this application under Section 175(3) of the B.N.S.S. to investigate the alleged incident. It is alleged that, N.A. No. 1 to 6 have committed an offences punishable under Section 336(1), 336(3), 201, 198, 199, 255, 256, 61(1), 3(5) and 3(8) of B.N.S.

02. Whereas, as per the rider put by Sub-Section 3 & 4 of Section 175 of B.N.S.S. it is mandatory to cause the enquiry by Magistrate, calling upon record from police, calling upon record from superior authorities of the purported accused and calling upon the assertions of purported accused, it requires to first call upon the assertions of purported accused. Accordingly, section 175(4)(a) and 175(4)(b) of B.N.S.S. have been complied.

03. Now, it is to be seen that, whether prima facie case is made out to order investigation under Section 175(3) of the B.N.S.S.

04. The relevant facts of the alleged incident are that, applicant is one vigilant citizen carrying on agricultural and business. Block education officer Shri. Shirsath illegally deputed one teacher namely Swati Shamrao Salve to the Z.P. School of Rajalwadi from the school of

Kotnandra by passing order dated 16/09/2019 which was not recorded in the original record. The said order was passed in place of economic transaction.

05. Again, the very teacher was deputed in the school of Pirwadi in view of order dated 15/10/2019 on the basis of medical certificate which is not available on the record of block education department. Even the signature on the order does not match with the signature of BEO Shirsath.

06. As per the muster of Z.P. School, Kotnandra teacher Salve was deputed 21 days earlier i.e. on dated 24/08/2019. But, the deputation order was of dated 16/09/2019. This shows that, teacher Salve received salary sitting at home and thereby she deceived Government. Likewise another block education officer namely Vyankatesh Komatwar had passed deputation order of the very teacher **(here it is noteworthy to mention that, BEO Vyankatesh Komatwar is not arrayed as proposed accused by the applicant).**

07. Accordingly, applicant complained said incident towards the divisional deputy commissioner on dated 05/09/2023 and asked for enquiry into deputation orders passed in last ten years. On the basis of very complaint, deputy commissioner directed CEO, Z. P., Aurangabad to conduct enquiry as to BEO Shirsath and teacher Salve. But, no enquiry committee was constituted.

08. BEO, Sillod namely Anil Chavan forwarded his vague

report to the primary education officer Jayashri Chavan. In turn, Jayashri Chavan forwarded her endorsement to CEO Vikas Meena. On the basis of very report CEO Meena forwarded his report to the Divisional Deputy Commissioner Shri. Suresh Bedmutha. During the very period applicant submitted various evidences to the education officer and CEO but evidence adduced by him was not considered at all.

09. As, CEO was not taking any action, applicant issued various reminders to the deputy commissioner time to time, but in vain. As such, he complained by post towards the Secretary and Commissioner, Education Department, Pune, but in vain.

10. Finally, CEO took decision and warned block education officer Shri. Shirsath not to repeat the activity of non-compliance of Government order in future, failing which, he shall be made to face disciplinary action. As against the very order, applicant filed complaint cum objection towards Deputy Commissioner. As such, Deputy Commissioner again directed to CEO to take appropriate action within 15 days. But, the very order was also vague one as what action is to be taken was not mentioned.

11. Thereafter, applicant pursued the matter and furnished various evidences, still CEO was not taking any action. Finally, they disposed off his complaint holding that, in order to avoid educational disadvantage of student and on the ground of medical, teacher Salve was deputed as temporary arrangement.

12. Likewise, CEO tried to save errant people. As such, he filed objection cum appeal towards the Deputy Commissioner and Commissioner against the order passed by the CEO and pointed out that, both orders passed by the CEO are contrary to each other. The way, CEO contravened provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

13. All officers prepared vague and misleading report in order to mislead the complainant. Evidences furnished by complainant are not taken into consideration. CEO passed an order highhandedly without taking proper action. No enquiry is initiated to collect the evidence. This shows that, all officers tried to save BEO Shirsath and teacher Salve making hand in hand.

14. In-actions of all officers caused financial and mental harassment to the applicant. No action is taken against the errant officers, who were indulged in preparing false documents for taking salary sitting at home from the Government and thereby deceiving the Government. Non-applicants did not act in bonafide manner and they contravened Government resolutions, rules and regulations. As such, it requires to initiate criminal actions against them.

15. The way, applicant filed complaint to the Sillod City Police Station on dated 08/03/2025 before the Assistant Superintendent of Police Shri. Madhav Mayank, but in vain. P.S.I. Manish Jadhav issued him one letter directing him to ask for redressal before the Education

Department or the Court.

16. Thereafter, applicant complained towards Superintendent of Police Rural, Aurangabad, who told him as to passing oral direction of primary enquiry. But, conducting enquiry at Sillod City Police Station, he came to know that, no any oral order of conducting primary enquiry was given by S.P., Aurangabad. As such, he issued reminder letter to the S.P., Aurangabad. He was told by the public redressal officer Shailendra Jadhav at S.P. office that, on the day of complaint, oral direction as to primary enquiry was given to Sillod City Police Station. As such, again he went to Sillod City Police Station and asked the same but nothing was done. The way, police officers committed an offence punishable under Section 198 & 199 of B.N.S.

17. The applicant is having reasonable apprehension that, order passed by BEO Shirsath on dated 16/09/2019, shall be destroyed as it is not known yet in whose possession the same is. If the same is happened, this will affect the present case. It requires to take into possession the appropriate record from the office of BEO Sillod, officer of the Head of Center and inward outward register of schools. There is likelihood of political pressure. Hence, it is prayed for passing an order of investigation under Section 175(3) of B.N.S.S.

18. As the facts and circumstances of the alleged incidents are concerned with the discharge of official duty of Government servants, it was required to get complied Section 175(4)(a) and 175(4)(b) of B.N.S.S. Accordingly, assertions by non-applicants and reports of their

superior were called out and same are filed on record.

19. Non-applicant No. 1 filed his say vide Exh. 11 and contended that, the complaint application filed by applicant to the police station was forwarded for enquiry to the PSI M. R. Jadhav. Accordingly, he held enquiry and came to know that, the complaint was related with education department and the competent authority of education department is to enquire the same and if following the enquiry it is revealed that, criminal offence is committed, then it is the authorized person by the said department who is competent to lodge the report with police station. As such, an understanding letter was given to the applicant and his complaint was disposed off.

20. Vide Exh. 09, non-applicant No. 2 & 4 to 6 filed their say and opposed the application contending that, the applicant has no locus in filing the present application and the same is filed only for harassing public servants mentally and the same amounts obstacle in their public duty. It is true that, teacher Smt. Salve was transferred from Rajalwadi school to Peerwadi school in view of order dated 15/10/2019 as temporary arrangement on the basis of her medical certificates.

21. In the para No. 4 of the Exh. 01 applicant alleged that, BEO Vyankatesh Komatwar also passed deputation order of teacher Smt. Salve on dated 27/01/2022, but he is not arrayed as non-applicant in the present application. Even no single word of objection is mentioned in the very application as to Vyankatesh Komatwar. This shows the motif of the applicant.

22. In accordance with the complaint of applicant dated 05/09/2023, office of the divisional commissioner directed BEO Panchayat Samiti, Sillod to appear before him with actual report annexed with relevant documents on dated 19/10/2023. Accordingly, BEO Shri Anil Pawar forwarded his report on 18/10/2023.

23. It is true that, CEO found that, in order to avoid educational disadvantages of the student and having regard to the medical ground of teacher Salve, on the basis of temporary arrangement, her deputation was made and accordingly the complaint of applicant was disposed off.

24. Additional say states that, non-applicant No. 2 Shri. Shirsath was acting as Education Extension Officer at Panchayat Samiti, Sillod from 03/03/2017 to 21/05/2022. During the very period the post of BEO was vacant. As such, additional charge of BEO was handed over to non-applicant No. 2 Dilip Tukaram Shirsath, EEO.

25. During the very period teacher Swati Salve acting at Z.P. School, Kotnandra moved an application for transfer towards EEO Dilip Shirsath on the medical ground. At that time, at Rajalwadi School for temporary period post was vacant. The way, in order to avoid educational loss of the student, deputation of teacher Salve was made to the school of Rajalwadi in view of order dated 16/09/2023 on the verification of medical grounds cited in the transfer application.

26. During the very period, in the school of Kotnandra, class

first to seven were in existence and there were in all nine teachers. Surpanch and villagers of Kotnandra gave no-objection to transfer teacher Salve being ill to non-applicant No. 2 on dated 18/07/2019. The way, in order to fill up the vacant post of the Rajalwadi School, teacher Salve was deputed on the basis of temporary arrangement to avoid educational loss of students. Thereafter, teacher Salve was deputed to the school of Peerwadi on dated 03/10/2019 as teacher at the Peerwadi school namely Dipak Wadekar was discharging duty of collecting scholarship proposals across the taluka and he was not in position to teach student. In view of point No. 16 of the resolution of Job Chart dated 03/09/2002 EEO is competent authority.

27. Following the complaint of applicant towards Deputy Commissioner, Aurangabad, CEO Z.P. Aurangabad was directed to file his report in view of order dated 21/09/2023. Accordingly, CEO Aurangabad directed to commence enquiry in the matter. Accordingly, BEO Anil Pawar, Panchayat Samiti, Sillod forwarded his report dated 18/10/2023 to the CEO. Accordingly, CEO forwarded his report to Deputy Commissioner, Aurangabad on dated 29/12/2023.

28. As EEO Dilip Tukaram Shirsath and teacher Swati Shamrao Shelke were of class-3 Government servants, CEO Z.P. was their appointing authority. The way, in view of the Maharashtra Zilha Parishad Discipline and Appeal Rule, 1964 he was competent authority to initiate action against them. The way, in accordance with the direction by Deputy Commissioner, CEO was directed to take appropriate action against EEO Shirsath in view of order dated

16/02/2024.

29. The way, in accordance with the order by Deputy Commissioner dated 16/02/2024, CEO in accordance with disciplinary rules gave strict warning on dated 17/05/2024.

30. As applicant complained again, CEO took hearing of the very matter on dated 03/10/2024 and applicant was directed to remain present for hearing. But, he did not remain present. Except him, all concerned were present for hearing. The way, following hearing CEO did not find any substance in the complaint of applicant and accordingly the same came to be disposed off on dated 03/10/2024.

31. Only because of medical condition of teacher Salve and for avoiding educational loss of students learning at Rajalwadi and Peerwadi school, teacher Salve was deputed and because of the same no loss is caused to any student. The applicant is not concerned with any school and he is not having any interest. Only for the harassing public servants mentally, he filed false and bogus complaints. Non-applicant No. 4 to 6 acted in accordance with the rule. CEO has taken proper disciplinary action against EEO Shirsath.

32. The applicant is neither resident of village Kotnandra nor Rajalwadi nor Peerwadi. None from his family is learning in any school at Kotnandra, Rajalwadi and Peerwadi. In the order passed in writ petition No. 2492/2024 dated 23/10/2024, the Hon'ble Bombay High Court, Bench at Aurangabad passed order which reads as follows :-

Time and again we have cautioned the State Authorities not to entertain the applications filed by social workers or bystanders or persons unconnected with the organization and who have not suffered any personal legal injury.

In several cases, we have noticed that the persons describing themselves as social workers, lodge complaints against teachers and professors working in Schools, Colleges and Universities and holdout threats to the education department to compel them to commence roving inquiries against such employees. We have directed that such complaints should not be entertained. In some matters, we have also held that, Writ Petitions filed by such persons who intend to settle a personal score or pray for roving inquires, should not be entertained.

We direct the Registrar (Judicial) to place a copy of this order before the Chief Secretary of the State of Maharashtra, as well as, the Principal Secretaries, General Administration Department and the School and College Education Department, in order to issue strict directions to all the Education Departments and the Statutory Authorities to refrain from entertaining such complaints / applications/ representations or of threats, by unconnected people, more so, in view of the Notification dated 3rd December 1958, the Circular dated 26th December, 2019 and the Government Resolution dated 14th October, 2019 referred to herein above.

33. Accordingly, non-applicant No. 2, 4 to 6 prayed for dismiss the application.

34. Non-applicant No. 3 teacher Swati Salve also filed her say and opposed the application contending that, applicant is not having any locus standi. She has complied the order passed by her superior. No way, she has deceived Government. Only for harassing her applicant filed various complaints and because of the same, she constrained to

spend her valuable time.

35. In various orders passed by the Hon'ble High Court regarding complaints towards the public servant by third person, it is specifically directed to not entertain such frivolous complaints by the superior authorities. Even in accordance with the directions of the Hon'ble High Court, State of Maharashtra passed various resolutions cited in the very say of the non-applicant No. 2 and as per the gist of those circulars, such frivolous complaints are not to be entertained.

36. The applicant uses to move various applications under Right to Information Act to various Government offices at Sillod malafidely to harass the public officers. Even he uses to impress that, he is political activist and thereby try to blackmail for extracting money from the public officers. If he does not get money, he goes to file false complaints against public servants.

37. The applicant and his brother namely Mahesh Shankarlal Shankarpelli have filed imaginary complaint and suits in the Sillod Court and some criminal cases against them are pending such as Cri. M. A. No. 701/2015, S.C.C. No. 956/2017, S.C.C. No. 955/2017, S.C.C. No. 697/2017, S.C.C. No. 696/2017, S.C.C. No. 695/2017, S.C.C. No. 357/2017, R.C.S. No. 183/2018, Cri. M. A. No. 305/2019, S.C.C. No. 207/2021, S.C.C. No. 189/2021, Civil M. A. No. 200/2021, M. A. No. 31/2022, R.C.C. No. 35/2022, Cri. M. A. No. 701/2015.

38. Also, the brother of applicant namely Mahesh Shankarpelli

filed various writ petitions against Government officers such as Writ Petition No. 13078/2023, C. P. No. 924/2023, Civil Appeal No. 2959/2024, Appeal No. 722/2022, Appeal No. 27/2024, Writ Petition No. 8990/2022 and Writ Petition No. 862/2022.

39. The non-applicant No. 3 has not committed any offence at all. Had there been any educational loss to the student at Kotnandra, Rajalwadi or Peerwadi, villagers there at would have raised their grievance at Panchayat Samiti, Sillod. But, nothing so is happened yet. In the police enquiry also nothing is found as to commission of offence. Non applicant No. 3, got an order of deputation only because of her medical problem as she was advised not to travel long during pregnancy. She has complied the order of her superior authority. Hence, it is prayed for rejecting the very application.

40. Deputy Superintendent of Police Sillod Sub-division also filed his say vide letter bearing o/w No. 2524/2025 dated 24/12/2025, wherein, it is submitted that, in-charge BEO, Sillod Shri Shirsath having no authorities of transfer of any teacher, the transfer of teacher Swati Salve in contravention of the service rules. As such, he is given strict warning by the chief executive officer. In respect of the transfer of teacher the role of BEO is limited to the extent of accepting and forwarding transfer applications of teacher towards the competent authority. The act of BEO is administrative misconduct and for the same he is given strict warning as a part of disciplinary action. Police are not empowered to initiate action in case of contravention of administrative rules, exceeding authority. Police are concerned only

when the criminal offences are committed. As regards the complaint of applicant no criminal offence such as forgery, corruption are made out prima facie. Hence, no crime was registered on the basis of complaint of the applicant.

41. I have given my thoughtful consideration to the application and all documents filed therewith by the applicant as well as non-applicants, says filed by all non-applicants, report filed by Dy.S.P., Sillod Sub-division vide Exh. 18, report submitted by Secondary Education Officer, Aurangabad vide Exh. 19, report submitted by BEO, Panchayat Samiti, Sillod vide Exh. 20, report submitted by Divisional Commissioner, Aurangabad vide Exh. 21, report submitted by CEO, Z. P., Aurangabad vide Exh. 22, written notes of argument filed on record by complainant vide Exh. 23 and case laws cited by rival parties.

42. Here, the Court is to decide that, whether prima facie case is made out that non-applicants committed cognizable offence requiring direction to investigate in view of Sections 175(3) of the B.N.S.S.

43. The applicant relied upon the case of *Lalitakumari Vs. Government of U.P. & Ors.* (Writ Petition No. (Cri) 60/2008). The cited authority is the precedent on the registration of F.I.R. and power of the police, wherein it is held that, irrespective of the truth police are under obligation to reduce F.I.R. when the averments of report disclose the cognizable offence. The authority being precedent and landmark Judgment of the Hon'ble Supreme Court, all guidelines therein are binding on this Court.

44. Here, the case of applicant is that, non-applicant No. 1 to 6 hatching conspiracy have committed offences punishable under Section 336(1), 336(3), 201, 198, 199, 255, 256, 61(1), 3(5) and 3(8) of B.N.S. and in order to register crime he had lodged complaint with Sillod City Police Station but no action was taken. As such, he is forced to file the complaint of the same substance before the Superintendent of Police, Aurangabad still the crime is not registered and he forced to file the present application for seeking direction of investigation under Section 175(3) of B.N.S.S.

45. Now, it is duty of the applicant to show that, alleged averments prima facie make out cognizable case against non-applicant No. 1 to 6 ? On perusal of the report submitted by CEO, Deputy Commissioner, Divisional Commissioner, Education Officer, Block Education Officer, Dy. S.P., Sillod, it appears that, teacher Swati Salve had moved transfer application on the ground of medical advise given by doctor for not traveling long. At the relevant time the post of BEO was vacant at Sillod and EEO Shri. Shirsath was holding additional charge of BEO. The way, in the capacity of BEO non-applicant No. 2 passed an order of deputation dated 16/09/2019 and thereby non-applicant No. 3 teacher Salve was deputed at Rajalwadi school. Thereafter, another BEO namely Vyankatesh Komatwar also passed deputation order of non-applicant No. 3 and deputed her at Peerwadi school in view of order dated 15/10/2019. Here, it is noteworthy to mention that, BEO namely Vyankatesh Komatwar is not arrayed by applicant as non-applicant for the reasons best known to him.

46. If non-applicant No. 2, in-charge BEO Dilip Tukaram Shirsath has committed offence by passing deputation order having no authority to do so, then how another BEO namely Vyankatesh Komatwar is not at fault in passing similar order. This shows that, applicant is selective in making complaint and initiating present application before the Court. Even no any explanation is given by the applicant that, why he is not inclined to array Mr. Vyankatesh Komatwar as one of the non-applicant in this application. Even it is not his case that, BEO Vyankatesh Komatwar pleaded guilty before any competent authority and he served punishment awarded to him. The way, the conduct of applicant comes under the shadow of doubt.

47. Here, it is the case of applicant that, as per the order of Deputy Commissioner, CEO was directed to conduct enquiry as to non-applicant No. 2 & 3. Accordingly, BEO Anil Pawar filed his report to the primary Education Officer Smt. Jayashri Chavan and in turn she filed her report to the CEO and in turn CEO filed his report to the Deputy Commissioner.

48. CEO held that, non-applicant No. 2 did not comply the Government resolution and he exceeded his authority, as such, he was punished by giving strict warning to the effect that, in future he shall not commit the same mistake, failing which he shall be subject to disciplinary action. It shows that, CEO being appointing and disciplinary authority of class-3 employees acting under the Zilha Parishad administration has punished the non-applicant No. 2. The thing is that, whatever punishment in the nature of strict warning is

given by CEO to non-applicant No. 2 is not sufficient. Meaning thereby that, the applicant wanted to initiate criminal proceeding against non-applicant No. 2 & 3 but the same is not happened.

49. Here, it is also case of the applicant that, the deputation order are not available in the record of punchayat samiti and that amounts that, those orders are forged one. But, the report of Dy.S.P., Sillod sub-division specifically shows that, no such forgery is committed by any non-applicant. Even applicant also has not showed the same how forgery is committed by non-applicants hatching conspiracy.

50. Another aspect of the case of applicant is that, police being under obligation to register FIR they have not registered FIR when he filed complaint disclosing cognizable case against non-applicant and thereby police authority also committed offences. Here, the report submitted by police authority, specifically shows that, from the complaint of applicant, no way prima facie case as to cognizable case is made out. Rather it was misconduct of non-applicant No. 2 as he passed an order of deputation exceeding his authority and for the same he was punished by his appointing authority in the nature of issuing strict warning as party of disciplinary action. The way, it appears that, police did not refused or neglect to reduce FIR into writing on revealing cognizable case.

51. Article 20 in Constitution of India states that :-

20. Protection in respect of conviction for offences

(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

Clause 2 of Article 20 of the Indian Constitution introduces the cardinal principle of criminal justice that, no person shall be prosecuted and punished for the same offence more than once and the same is called as double jeopardy. Here, as per the very case of the applicant that, CEO punished non-applicant No. 2 for passing deputation order by exceeding his authority and thereby strict warning is issued to him. In view of the disciplinary proceeding to be initiated against public servants for breach of rules and regulations of administration, strict warning is also one kind of punishment which is to be recorded in the service book of concerned. Merely because the punishment of strict warning is lenient one and applicant wants to initiate criminal proceedings against non-applicant No. 2 & 3 it does not mean that, all non-applicants committed alleged offences hatching conspiracy with each other.

52. Another aspect of the case of applicant is that, he has sustained injury because of inaction of non-applicants. Here, it is crystal clear that, applicant is neither resident of one of the three villages i.e. Kotnandra, Rajalwadi and Peerwadi neither anyone from his family is learning in one of the school. So any educational loss is cause to his

family member is also not the issue. Even no villager from Kotnandra, Rajalwadi and Peerwadi has moved any application or complaint before the Sillod Panchayat Samiti administration alleging that, because of the deputation of non-applicant No. 2, there has been educational loss to the students and there has been any wrongful gain to one of the non-applicants.

53. Now, what type of injury is caused to applicant is point of consideration. But, after having gone through the entire case, no way it appears that, any kind of injury is caused to the applicant. In order to constitute an offence there shall be the guilty act coupled with guilty mind. Here, though the act committed by non-applicant No. 2 is wrongful act coming in the ambit of exceeding his authority but it does not appear that, he has committed the said act with guilty mind for getting wrongful gain or committing wrongful loss to other. The way, passing erroneous deputation order exceeding authority amounts to breach of service rule and same is punishable as per the disciplinary rules by appointing authority. Here, it is matter of the record that, non-applicant No. 2 is punished by CEO in the nature of strict warning.

54. Non-applicants relied upon the authority passed in writ petition No. 2492/2024 which deals with the applications to the various Government offices by-standards, strangers posing themselves as social worker, vigilant citizen and information activist. In the very authority the Hon'ble High Court in para No. 14 passed following direction which reads as under :

We direct the Registrar (Judicial) to place a copy of

this order before the Chief Secretary of the State of Maharashtra, as well as, the Principal Secretaries, General Administration Department and the School and College Education Department, in order to issue strict directions to all the Education Departments and the Statutory Authorities to refrain from entertaining such complaints / applications/ representations or of threats, by unconnected people, more so, in view of the Notification dated 3rd December 1958, the Circular dated 26th December, 2019 and the Government Resolution dated 14th October, 2019 referred to herein above.

55. The way, it appears that, the applicant is stranger one not having any connection with the schools at Kotnandra, Rajalwadi and Peerwadi. More ever, on his compliant Deputy Commissioner directed CEO to initiate appropriate action and accordingly Deputy CEO initiated appropriate action and punished non-applicant No. 2 giving strict warning. The way, no way any cognizable offence is made out from the case of applicant prima facie. As such, it need not to direct Jurisdictional Police to investigate alleged complaint in view of Section 175(3) of B.N.S.S. Rather it appears that, the application is devoid of any merit and same deserves to be rejected. Accordingly, I pass the following order :-

ORDER

- i. An application is hereby rejected.
- ii. Applicant is hereby apprised as to his right to challenge this order before the Hon'ble Court of Sessions at Aurangabad within stipulated time.

Date – 16/04/2026

(K. T. Adhayke)
Judicial Magistrate First Class,
Sillod.