

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10620 of 1998

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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KK BALAT

Versus

STATE OF GUJARAT

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Appearance:

MR BN PATEL for Petitioner No. 1

MR KP RAWAL, AGP, for Respondent No. 1

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CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 30/07/2004

ORAL JUDGEMENT

1.1 By way of this petition the petitioner has challenged the order dated 9.9.1998 passed by the respondent wherein a penalty of stoppage of two increments with permanent effect was imposed upon the

petitioner.

2.1 The petitioner was working as Deputy Collector at Gandhinagar and in his capacity as Deputy Collector he passed an order in exercise of Revisional power under the provisions of Bombay Tenancy and Agricultural Lands Act, 1948 and confirmed the orders passed by the Malatdar and ALT, Gandhinagar. In respect of this order it was alleged that the petitioner had not acted properly and was negligent to the extent that he had failed to look into the previous transactions of the lands in question.

2.2 A show-cause notice and chargesheet was issued to the petitioner to which the petitioner has submitted his reply. Thereafter an inquiry was held against the petitioner and the Inquiry Officer submitted his Inquiry Report holding that the charges were proved. Thereafter a show-cause notice was issued to the petitioner and the petitioner appeared for the personal hearing on 11.1.1990. However, for quite some time nothing has happened.

2.3 On 7.9.1993 the respondent passed an order imposing penalty of removal of the petitioner from service. The petitioner challenged the said order before this Court by way of Special Civil Application No.9414/93. This Court directed the respondent to decide the review application which may be filed by the petitioner. The respondent rejected the said review application. It is against the said decision the petitioner has filed the present petition.

3.1 Learned counsel for the petitioner submitted that the petitioner has taken suo motu review of the order of the Mamlatdar and has dismissed the review against which revision was preferred and the order was confirmed by the Gujarat Revenue Tribunal by order dated 24th November 1993. He submitted that in view of the said facts the petitioner has not committed any error which warrants imposition of penalty.

3.2 Learned counsel for the petitioner relied upon a decision of the Supreme Court in the case of Zaunjarrao Bhikaji Nagarkar Vs. Union of India and others, reported in (1997) 7 SCC 409, wherein it is held that wrong application/interpretation of law itself is not a misconduct because wrong decision is subject to judicial supervision in appeal. To maintain a chargesheet against a quasi-judicial authority, something more, i.e. extraneous consideration influencing quasi-judicial order, deliberate act or actuated by mala fide, has to be

alleged.

4.1 In the present case the petitioner was acting as a quasi judicial authority and his decision has been upheld by the higher authority. Therefore, there is no substance in the allegation levelled against the petitioner. Apart from that, the respondent could not have imposed penalty on the petitioner in view of the fact that no inquiry is conducted for the quasi judicial proceedings. In that view of the matter the impugned order is required to be quashed and set aside.

5.1 In the result, the petition is allowed. The impugned order dated 9.9.1998 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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