

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION 6672 OF 2004

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| 1. The State of Maharashtra
Through the
Divisional Commissioner,
Aurangabad Division,
Aurangabad. | ...PETITIONERS
(Ori. Respondents) |
| 2. The Collector,
Aurangabad | |
| 3. The Sub-Divisional Officer,
Sub Division, Vaijapur,
Dist. Aurangabad | |

VERSUS

Nanasaheb Digambarrao Kulkarni, Age-43 years, Occu-Nil, Retired Talathi, R/o. Mangalpeth, Khultabad, Tq. Khultabad, Dist. Aurangabad.	...RESPONDENTS (Ori. Complainant)
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Mr.V.M.Kagne, AGP for the petitioners.
Mr.Y.P.Deshmukh h/f Mr.Pradeep Deshmukh, Advocate for the
sole respondent.

**CORAM : A.V.NIRGUDE &
V.K.JADHAV, JJ.**

DATED : 09.10.2015

ORAL JUDGMENT [PER: A.V.NIRGUDE, J.]

1. This petition challenges the judgment and order
dated 05.04.2004, passed by the learned Member of

Maharashtra Administrative Tribunal, Mumbai Bench at Aurangabad holding that the enquiry conducted against the respondent was illegal and punishment imposed on him deserves to be set aside.

2. The Maharashtra Administrative Tribunal, Mumbai bench at Aurangabad directed reinstatement of the respondent as Talathi and awarded him all the service benefits with backwages. The respondent was subjected to departmental enquiry in 1988 and after the enquiry was over, he was awarded penalty of compulsory retirement. The learned Members of the Maharashtra Administrative Tribunal, Mumbai Bench at Aurangabad perused the original record of enquiry and came to a conclusion that there was total failure on the part of the Enquiry Officer in following the procedure laid down under Rule-8 of the M.C.S. D & A Rules, 1979.

3. They also noted that at the time of enquiry even the Presenting Officer was not appointed, no evidence was recorded and no opportunity of cross-examination was given to the respondent. The report mostly depended on earlier findings of preliminary enquiry. The learned Members of the Maharashtra Administrative Tribunal, Mumbai Bench at Aurangabad observed that entire provision of Rule-8 had been violated with impunity.

4. The learned Assistant Government Pleader tried to defend the enquiry report but he is unable to show us the record in respect of propriety of enquiry and adherence to the provision of Rule-8. We find no substance in this petition challenging the impugned judgment. The petition deserves to be dismissed accordingly the petition stands disposed of.

5. Rule discharged.

[V.K.JADHAV, J.]

[A.V. NIRGUDE, J.]