

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

WRIT PETITION NO. 11207 OF 2014

Sunil Paraji Tambe

.. Petitioner

Versus

1. The State of Maharashtra and another .. Respondents

Shri Sachin S. Deshmukh, Advocate for the Petitioner.

Shri A. S. Shinde, A. G. P. for the Respondent No. 1.

Shri S. S. Patil, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 06TH JANUARY, 2015.

PER COURT :

. Mr. Deshmukh, the learned counsel submits that, against the decision of enquiry committee, the petitioner has filed appeal before the Director under Rule 63.3.3 (g) and (h) and the same is still pending. Till the appeal is decided the respondent No. 2 could not have initiated action and show cause notice could not have been issued. The learned counsel submits that, after the filing of present petition and the orders passed by this Court, the petitioner has received the communication that the said show cause notice is stayed on the ground that appeal is pending.

2. Mr. Patil, the learned counsel for the respondent No. 2

submits that, the respondent No. 2 was not aware about appeal being filed by the petitioner. As such issued stay to the show cause notice on getting knowledge of the said fact that, the appeal has been preferred.

3. The said show cause notice was stayed. The parties are *ad idem* that, the petitioner has preferred appeal before the Director under Rule 63.3.3 (g) and (h) and the same is still pending and the respondent No. 2 could not have issued the said show cause notice and could not have taken an action.

4. In any case the respondent No. 2 has stayed the said notice. There would be no propriety in keeping the said notice in force. In the light of the above, the said notice though is stayed would not survive and would stand annulled.

5. Depending upon the decision in appeal, the respondent No. 2 may take further steps as permissible in law. The writ petition is disposed of. No costs.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]