

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3431 OF 2011

Paresh Chhotalal Parekh. ..Petitioner.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. Bhavesh Parmar i/b Ms. S. A. Mailagir and Devmani Shukla
for the Petitioner.

Mr. J. P. Yagnik, learned APP for the State.

Mr. M. M. Nazmi i/b O. P. Singal for Respondent No. 4 and 5.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **April 7, 2015.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. Perused the orders dated 5th October, 2012, 23rd October 2012 and 18th March 2015. Pursuant to the orders dated 23rd October 2012, departmental enquiry was held against Madhukar Sankhe, ACP and Mr. Babasaheb Nikam, API and both were held guilty and punished. So far ACP Mr. Sankhe is concerned, he was punished by withholding his increment till 30th April 2016 and API Mr. Nikam has been warned.

2. On the last occasion, learned Counsel appearing for the Petitioner had made a grievance that the Petitioner was not allowed to participate in the enquiry, despite the directions given by this Court in the orders dated 5th October 2012 and 23rd

October 2012. We, therefore, had directed learned APP to file an affidavit whether order dated 5th October 2012 was complied with.

3. Mr. Dattatraya Karale, the then Dy. Commissioner of Police has filed an affidavit dated 6th April 2015. Paragraph 3 of the said affidavit reads thus :

"I say that in the present petition as per the directions of this Hon'ble Court order dated 5.10.2012 and 23.10.2012 the Hon'ble Court had directed to take departmental enquiry against erring officers for dereliction of duty to be carried out by Deputy Commissioner of Police rank officer. Pursuance to the direction of Hon'ble Court the Addl. Commissioner of Police, Central Region, Mumbai had given direction for the enquiry by letter datd 13.11.2012 against two erring officers namely, Shri. Mahdukar Sankhe, Assistant Commissioner of Police, Dadar Division, Mumbai and against Shri. Babashaeb Nikam, Police Sub Inspector, Shivaji Park Police Station, Mumbai. As per the said order I have started enquiry and accordingly I informed the Petitioner and witnesses through Police Station and pursuance to the said information the present Petitioner appeared before me on 12.12.2012 and stated that earlier my statement was recorded on 15.10.2012 by the Additional Commissioner of Police, Central Region, Mumbai and the said statement is correct as per his knowledge and in addition to that he does not want to make any further statement. Accordingly, in my presence his statement dated 12.12.2012 was recorded which was duly signed by him and his statement dated 15.10.2012 which was recorded by Additional Commissioner of Police, Central Region, Mumbai was taken into enquiry. In the present case apart from the present Petitioner the 9 witnesses were duly enquired by me. And after completing my enquiry along with my report dated 22.3.2013 as the enquiry

against Assistant Commissioner of Police, i.e., Shri. Madhukar Sankhe is to be decided by the Director General of Police, Maharashtra State, Mumbai therefore his enquiry report was sent for the necessary actions against said Assistant Commissioner of Police and as Police Sub Inspector, Babasaheb Nikam disciplinary action is to be decided by the additional Commissioner of Police, Traffic Branch, Mumbai, therefore his enquiry report to take appropriate decision upon the same sent to the Additional Commissioner of Police, Traffic Branch, Mumbai”

4. The affidavit reveals that the Petitioner was allowed to participate in the departmental enquiry and his statement was also recorded. The said statement of the Petitioner was also produced for our perusal. We find that the Petitioner was given an opportunity to participate in the departmental enquiry against erring police officers. In that view of the matter, order dated 5th October 2012 stands complied with. Nothing survives for consideration in the petition and it is accordingly disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]