

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

44 WRIT PETITION NO.1905 OF 2016

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
ADHIKRAO SHAMRAO MANE

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AGP for Petitioners/State: Mr.A.V.
Deshmukh.

Advocate for Respondent: Mr.K.M. Gadhave
Patil h/f Mr.Wagh Vishwas B.

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CORAM: S.S.SHINDE & SANGITRAO S. PATIL, JJ.
Dated: JUNE 29, 2016

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Heard learned AGP appearing for the
petitioners - State and the learned
Counsel for respondent - original
applicant.

2. The learned AGP invited our attention
to the letter dated 6th March, 2014
written by the respondent to the Deputy
Secretary, P.W.D., Mantralaya, Mumbai,
which is at Exh.D to the petition and
submits that, as a matter of fact, the
charge-sheet was served upon the

respondent – original applicant on 28th February, 2014 and the said fact has been admitted by the respondent. However, the copy of the said letter was not placed before the Maharashtra Administrative Tribunal and the tribunal, relying upon the statement in the affidavit-in-reply filed by respondent No.2 therein, proceeded to decide the Original Application and held that the charge-sheet was served on 12th September, 2014.

3. The learned Counsel appearing for the respondent submits that since respondent No.2 himself made a statement in the reply that the charge-sheet was served on 12th September, 2014, relying upon the said statement, the Maharashtra Administrative Tribunal has passed the impugned judgment and allowed the Original Application.

4. We do not propose to go into merits of the petition. In case, the petitioner – State wishes to file review so as to bring to the notice of the Maharashtra Administrative Tribunal the copy of the letter dated 6th March, 2014 (Exh.D), the petitioner can do so.

5. In that view of the matter, and since

the copy of the aforesaid letter was not placed before the Tribunal, we are not inclined to consider the said letter for the first time while exercising the writ jurisdiction. If, the petitioner wishes to file review application before the Maharashtra Administrative Tribunal, it will be open for the petitioner to avail the said remedy. In case, there is delay in filing such a review application, while considering the prayer for condonation of the delay, the Tribunal shall keep in view the time spent by the petitioner in prosecuting this petition.

However, we make it clear that merely because we have made certain observations enabling the petitioner to file review application, that by itself cannot be construed as a ground not to implement / execute the order passed by the Maharashtra Administrative Tribunal. We hope and expect that petitioner – State will initiate an appropriate action against respondent No.2 for filing the affidavit before the Maharashtra Administrative Tribunal making a wrong statement that the charge-sheet was served on 12th September, 2014. However, initiation of such an action should be in

accordance with the procedure and relevant rules.

6. With the above observations, petition stands disposed of.

(SANGITRAO S.PATIL, J) (S.S. SHINDE, J)

kadam/