

FARAD CONTINUATION SHEET NO.

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

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

Court's or Judge's orders

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**WRIT PETITION NO.5953 OF 2016**

AASARAM DHONDIBA JAHARWAL  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for Petitioner : Mr.Biradar R.D.  
AGP for Respondents/State: Mr.V.S. Badakh.

...  
**CORAM: S.S.SHINDE & SANGITRAO S. PATIL, JJ.**  
**Dated: JUNE 13, 2016**

...

Heard the learned Counsel for the petitioner. He submits that the respondents have asked the petitioner to Rs.10,87,672/- towards penal rent for occupying the official residence / quarters at Aurangabad. It is submitted that the relevant Government Resolution dated 9<sup>th</sup> April, 2011 issued by the Finance Department, Government of Maharashtra prescribes the rates / rent for occupying Government quarters / residence. Therefore, according to the learned Counsel for the petitioner, the

order impugned in this petition is not in accordance with the Government Resolution. He further invited our attention to the letter dated 18<sup>th</sup> November, 2014 written by the Deputy Inspector General of Police, Training and Special Squad, Maharashtra State, Mumbai and submitted that the said authority has considered the request of the petitioner and accordingly directed the respondent authority to take appropriate decision.

2 The learned AGP appearing for the State, relying upon the reasons assigned by the respondent – authority while imposing the penalty, submits that the petitioner continued to stay in the Government accommodation even though he was transferred at some other place in the year, 2006. It is submitted that in spite of giving repeated notices and reminders to the petitioner, the petitioner did not vacate the said accommodation at Aurangabad. As a result, keeping in view the relevant Government policy issued by the Department of Home, the impugned order came to be passed by the respondent – authority. Therefore, the learned AGP submits that this Court may not interfere in the impugned order.

3 We have considered the submissions of the learned Counsel appearing for the petitioner and the learned appearing AGP for the State. With their able assistance, perused the affidavit-in-reply placed on record. It is not disputed that though the petitioner was transferred in the year, 2006, the petitioner retained the official accommodation at Aurangabad. There may be good grounds for retaining the accommodation but, the fact remains that the respondent – authority had directed the petitioner to vacate the said official accommodation. We cannot enter into the disputed questions of facts as to whether the accommodation was needed by the petitioner or whether the said accommodation would have remained vacant in case, the petitioner had vacated it. Admittedly, the petitioner continued to occupy the said official accommodation in spite of orders passed by the superior officers that too, when the petitioner is working in the police department, where discipline is an essential element.

4 In that view of the matter, in our opinion, the conduct of the petitioner does not allow him to invoke the extraordinary jurisdiction of this Court

and claim equitable relief.

5 In that view of the matter, we are not inclined to entertain the writ petition. However, if the petitioner's application / representation is pending with the respondents, it is for the respondents to take a decision on merits on the said representation / application. We have not expressed any opinion in that respect. In case, the application is pending, the same shall be decided on its own merits,, as expeditiously as possible; however, within twelve weeks from today and the decision so taken, shall be communicated to the petitioner.

With the above observations, petition stands rejected.

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