

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

Writ Petition No. 8794 of 2011

District : Nanded

Bapurao s/o. Kerbaji Bhalekar,
Age : 55 years,
Occupation : Engineer,
Zilla Parishad, Nanded,
Sub-Division, Kandhar,
District : Nanded,
R/o. Bandhkam Nagar,
Beside Mahsul Colony,
Taroda [Bk.] Road,
Nanded.

.. Petitioner.

versus

1. The State of Maharashtra,
Through the Secretary,
In the Department of Public Works
Department, Mantralaya,
Mumbai - 32.
2. The Assistant Registrar,
In the office of Maharashtra Lokayukta,
In front of Mantralaya Administrative
Building, Mumbai.
3. The Deputy Executive Engineer,
Public Works Department,
Division Hingoli,
District : Hingoli.
4. Vitthal s/o. Narayan Jadhav,
Age : 45 years,
Occupation : Nil,
R/o. Goregaon,
Taluka : Shengاون,
District : Hingoli.

.. Respondents.

.....

*Mr. A.N. Irpatgire and Mr. V.M. Maney, Advocates,
for the petitioner.*

*Mrs. M.A. Deshpande, Asst. Government Pleader, for
respondent nos.1 to 3.*

Respondent no.4 served (Absent).

.....

**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 11TH JANUARY 2016

COURT'S ORDER (Per S.V. Gangapurwala, J.) :

1. Mr. Irpatgire, the learned Counsel for the petitioner, submits that the recommendations made by the Lokayukta upon complaint filed by the present respondent no.4 is without adhering to the principles of natural justice and without following Section 10 of the Maharashtra Lokayukta & Upa-Lokayukta Act, 1971 [**For short, hereinafter referred to as “Act of 1971”**]. The learned Counsel submits that at no point of time, the Lokayukta had given notice to the petitioner of the complaint filed before it and recommendations have been made by the Lokayukta about action being taken against the petitioner. Pursuant to the said recommendation, criminal complaint is lodged by the respondents - authorities. Earlier departmental enquiry was conducted. The petitioner faced the departmental enquiry and punishment was imposed in the said departmental enquiry, against which, appeal is filed by the petitioner. The learned Counsel submits that the lodging of criminal case is based on the recommendation of the Lokayukta. The said recommendation itself

deserves to be quashed and set aside being violative of principles of natural justice and Rule 10 of the Rules of 1971.

2. Mrs. Deshpande, the learned Asst. Government Pleader for respondent nos.1 to 3, submits that earlier departmental enquiry was initiated. The petitioner is found guilty in the said departmental enquiry. Thereafter, on receiving recommendation of the Lokayukta, further steps are also taken. FIR is also lodged.

3. During the course of arguments, it is submitted that now charge-sheet is also filed pursuant to the said FIR. Naturally, charge-sheet has to be filed as per the investigation made by the authorities pursuant to the FIR. The Court where the criminal case is pending pursuant to the FIR will have to decide the matter on the basis of the investigation made. Certainly the said Court would not be influenced by the recommendations of the Lokayukta. However, the Court shall decide the case independently upon evidence adduced before it. Considering the fact that in the criminal case charge-sheet is also submitted against the petitioner, purpose of the Writ Petition does not survive.

4. With these observations, the Writ Petition is disposed of. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

.....