

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

CRIMINAL WRIT PETITION NO. 1657 OF 2015

THE STATE OF MAHARASHTRA
VERSUS
TULSHIRAM RAMCHANDRA RATHOD

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APP for Petitioner : Mr S G Karlekar
Advocate for Respondents : Mr Gadve Patil Kishor M

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CORAM : V.K. JADHAV, J.
Dated: August 02, 2016
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PER COURT :-

1. With the consent of learned counsel for respective parties, heard finally.
2. Being aggrieved by the order passed by the learned Special Judge, Basmath dated 1.4.2015 in Special (ACB) No.4/2014 the State of Maharashtra has filed present writ petition.
3. Respondent was accused in Special Case No.4/2014. One Sandip Sarode lodged a complaint on 28.2.2011 against respondent/accused alleging therein that for issuing solvency certificate respondent/accused made a demand of Rs.5,000/-. On the basis of his complaint, trap was arranged and said trap was successful. Respondent/accused caught red handed alongwith bribe of

Rs.5,00/-. Thereafter, investigation was carried out and accordingly charge sheet came to be submitted. During the pendency of said case No.4/2014, respondent/accused had filed an application Exh.9 for discharge mainly on the ground that, the Government has refused to accord sanction to prosecute him. The learned Special Judge by its impugned order below Exh.9 dated 1.4.2015 allowed the said application Exh.9 and accordingly discharged the respondent/accused in the said case for the offences punishable under sections 7, 13(i)(d) read with 13(2) of Prevention of Corruption Act, 1988. Hence, this Writ Petition.

4. It is a matter of record that, the Government as per letter dated 22.3.2013 refused to accord sanction to prosecute the accused. Learned Special Judge has also referred the said communication dated 22.3.2013 in paragraph no.6 of the impugned order. However, one another letter is sent by the Home Department dated 8.7.2014 stating therein that, respondent/accused retired from service on 31.3.2013 and therefore, there is no necessity to obtain sanction to prosecute him. In the light of the said letter dated 8.7.2014 the learned APP submits that though the act complained against the respondent/accused was during the

course of his employment, his retirement subsequent to that requires no sanction from the Department.

5. I do not find any substance in the submissions made by the learned APP. As per communication dated 22.3.2013 the Government has refused to accord sanction to prosecute the accused when he was in service. In view of this, I do not find any fault in the impugned order dated 1.4.2015 passed by the Special Judge, Basmath. There is no substance in the writ petition. Writ Petition is liable to be dismissed. Hence, following order is passed.

O R D E R

I. Writ Petition is hereby dismissed.

(V.K. JADHAV, J.)

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aaa/-