

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
Writ Petition No.1066 of 2016
[Rajiv Narayanrao Raut Vs. Mah. State Road Transport Corporation]

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

Court's or Judge's orders

Shri C.V. Jagdale, Adv., for the petitioner.
Shri V.G. Wankhede, Adv., for the respondent.

**CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.**

DATE : 26th April, 2016

By this Writ Petition, the petitioner challenges the notice dated 4th February, 2016 asking the petitioner to show cause as to why he should not be dismissed from service after the charges levelled against the petitioner in the Departmental Enquiry are held to be proved.

The petitioner was allegedly caught red-handed while accepting a bribe of Rs.5,000/-. Criminal

proceedings are instituted against the petitioner for offences punishable under the provisions of the Prevention of Corruption Act. A Departmental Enquiry was conducted by the respondent-Corporation against the petitioner on the charges relating to the acceptance of bribe. The Departmental Enquiry was concluded and it was held that the serious charges levelled against the petitioner were proved. The petitioner was served with the notice along with the Enquiry Report and he was asked to show cause as to why he should not be dismissed from service. The said notice is impugned by the petitioner in the instant petition.

While challenging the notice of proposed termination, the petitioner has relied on the Circular of the Maharashtra State Road Transport Corporation dated 13th January, 2016, as also an order of the Appellate Authority passed in a Departmental Appeal filed by one of the employees that was dismissed by the Corporation.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the Writ Petition, we find that the petition is premature. The petitioner is merely directed to show cause as to why he should not be dismissed from service on the culmination of the Departmental Enquiry and after the serious charges levelled against the petitioner are proved. Instead of replying to the Show-cause-Notice, the petitioner has approached this Court to stall further action in the matter of dismissal of the petitioner. It

would be necessary for the petitioner to reply to the Show-cause-Notice and if at all an adverse order is passed against the petitioner, the petitioner may avail appropriate remedies for challenging the order. We find that the Circular relied on by the learned counsel for the petitioner dated 13th January, 2016 cannot come to the rescue of the petitioner for effectively challenging the Show-cause-Notice. It is observed in the said Circular that if at all a criminal prosecution is pending against the employee for the offences punishable under the Prevention of Corruption Act, the Corporation may consider whether it would be appropriate to initiate the Departmental Enquiry on the same charges. In the instant case, the Departmental Enquiry is already concluded and a Show-cause-Notice is served on the petitioner in respect of the proposed dismissal. The petitioner cannot seek a stay of further action by filing the Writ Petition, when the serious charges levelled against the petitioner are proved and further action is contemplated by the Corporation against him.

Since we are inclined to dismiss the Writ Petition, Shri Jagdale, the learned counsel for the petitioner, seeks extension of time to file the reply to the Show-cause-Notice by a period of fifteen days from this date. The request made on behalf of the petitioner is just and reasonable.

Hence, while dismissing the Writ Petition, we permit the petitioner to file the reply to the Show-cause-

Notice within a period of fifteen days. The Corporation is directed to take a note of this position. In the circumstances of the case, there would be no order as to costs.

Judge

Judge

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