

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

WRIT PETITION NO. 4572 OF 2015

Anantkumar Panditrao Korde Vs. State of Maharashtra Rev. & Forest Deptt. Mumbai & Ors.

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

Court's or Judge's Order

Shri V. N. Patre Adv for petitioner.
Smt B. H. Dangre, Adv for respondent nos. 1 to 3.

**CORAM: SMT. VASANTI A. NAIK &
A. S. CHANDURKAR JJ.**

DATED: 02 FEBRUARY, 2016.

By this writ petition, the petitioner challenges Condition No. 3(2)(d) of Government Notification dated 22.10.2013 that prohibits an employee against whom a departmental enquiry is pending, from appearing at the service qualifying examination.

According to the petitioner, the condition is bad in law in as much as the same prevent a Forester from appearing at the service qualifying examination if a departmental enquiry is pending against him/her, whereas the Government Resolution dated 22.04.1996 permits the promotion of an employee against whom a departmental enquiry is pending. It is stated that the condition so challenged is contrary to the Government Resolution dated

22.04.1996.

Though we find much force in the submission made on behalf of the petitioner, it is rightly stated on behalf of the respondents by the learned counsel for the Forest Department that the cause for filing writ petition has been rendered infructuous in as much as the petitioner had appeared for the service qualifying examination in pursuance of the ad interim order granted by this Court and has failed to qualify in the same. It is stated that this Court can dispose of the writ petition by keeping the issue-challenge to the condition in the Notification, open.

Since the petitioner has failed in the service qualifying examination in which he had appeared in pursuance of the ad interim order, the challenge to the condition in the Government Notification 22.10.2013 would be academic. It would not be proper to decide an academic question when the petitioner has failed in the service qualifying examination. Hence, we dispose of the writ petition with no order as to costs. The points raised in the writ petition are kept open.

JUDGE

JUDGE