

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

WRIT PETITION NO. 1021 OF 2017

Sandesh Chandrabhanji Thaware ...Petitioner

VERSUS

Maharashtra State Electricity
Distribution Company Ltd.
and another ...Respondents

.....

Shri A.S.Deshpande, advocate for the petitioner
Shri A.S.Bajaj, advocate for respondent

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 10th FEBRUARY, 2017

O R D E R :

Mr. Deshpande, learned counsel for the petitioner states that the petitioner is serving with the respondent as an Executive Engineer. A false complaint is filed against the petitioner under the provisions of Prevention of Corruption Act and same is pending. The petitioner is placed under suspension on 7.6.2016. Subsequently, charge sheet is issued.

(2)

2. Learned counsel submits that the charges in the departmental inquiry and the criminal case are substantially the same. Learned counsel relies on the judgment of the Apex Court in the case of **Paul Anthony vs Bharat Gold Mines Ltd.** reported in (1999) 3 SCC 679.

3. Mr. Bajaj, learned counsel for the respondent submits that the charges in the departmental inquiry and the criminal case are different. There are various charges against the petitioner with regard to causing loss to the Company, not supervising the work properly and negligence in the performance of work. There are also charges with regard to impropriety and misconduct. In view of the fact that the charges are different, the evidence also would be different. The departmental inquiry proceedings cannot be stayed. Even otherwise the standard of proof in criminal case and departmental inquiry is different.

4. We have considered the submissions canvassed by the parties. In group of matters we have taken a view that when the charges in the departmental inquiry and the criminal case are the same, then the departmental inquiry was stayed for one year. We had passed the following order.

“I. We direct the court dealing with the criminal charges against the petitioners to conclude the proceedings as expeditiously as possible, and preferably within a period of one year from the date of this order.

II. The interim orders granting stay to the ongoing disciplinary proceedings in each of the case shall remain in force for a period of one year from the date of this order.

III. In case the charge sheet is not filed or belatedly filed, the interim orders granting stay to the ongoing disciplinary proceedings in such case shall remain in force for a period of one year from the date of this order and the disciplinary proceedings initiated against the petitioners in those cases shall be resumed and concluded by the Enquiry Officer thereafter.

IV. We hope and trust that the trial court will take effective steps to ensure that the witnesses are served, appeared and examined accordingly.

(4)

V. The petitioners, who are accused in criminal case, shall co-operate with the trial court for early disposal of criminal proceedings.

VI. In case, the trial is not completed within a period of one year from today, despite the steps which the trial court has been directed to take, the disciplinary proceedings, initiated against the petitioners, shall be resumed and concluded by the Enquiry Officer.

VII. We make it clear that the interim orders staying ongoing disciplinary proceedings shall in that case stand vacated upon expiry of a period of one year from the date of this order.

VIII. Registry may communicate this order to the concerned Courts, where the criminal prosecutions against the petitioners are pending. "

5. In the present case, it would appear that charge nos. 1, 2 and 6 are different and are not related to the criminal case. The other charges, it appears, are the same as in criminal case.

6. Considering the afore said aspect of the matter, we pass following order.

(5)

The respondent may continue with the departmental inquiry in respect of charge nos. 1, 2 and 6. With regard to charge nos. 3 to 5 and 7 the same shall be stayed for a period of one year. In respect of Charge nos. 3 to 5 and 7 the order passed in Writ Petition No. 4758 of 2014 with other Writ Petitions reproduced supra shall operate.

7. Writ Petition disposed of. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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