

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6434 OF 2016
(Sunil Digambar Gabhane Vs. The State of Maharashtra and others)

Mr. A.R. Devkate, Advocate holding for Mr. Swapnil
D. Tawshikar, Advocate for the Petitioner
Mr. P.N. Kutti, A.G.P. for the respondent/State
Mr. S.G. Dodya, Advocate for respondent Nos. 3 and 4

CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.

DATE : 5th APRIL, 2017

ORAL ORDER :

Heard.

2. The petitioner assails the order passed by the Committee headed by respondent No.2 thereby rejecting the application for revocation suspension.

3. As criminal case was registered against the petitioner for the offences punishable under Sections 306, 498-A, 323 read with 34 of the Indian Penal Code, the petitioner came to be suspended on or about 1st March, 2013 and since the said date, the petitioner is under suspension.

4. The learned counsel for the petitioner submits that the criminal case is not yet ready for recording evidence though the chargesheet is filed in May, 2013. According to him, the proposal was submitted by the petitioner for revocation of suspension; however, it was rejected on the ground that two years have not lapsed. Subsequently, suo motu, the Committee considered and rejected the said proposal. According to the learned counsel, the departmental enquiry is also not initiated against the petitioner. No purpose would be served by keeping the petitioner under suspension.

5. Mr. Dodya, the learned counsel for respondent Nos. 3 and 4 submits that the application of the petitioner for revocation of suspension was forwarded to the Committee headed by respondent No.2. Respondent No. 2 opined that grave and serious charges are against the petitioner and as such, his application for revocation of the suspension cannot be considered. Respondent No. 3 is bound by the orders of the Committee. Subsequently, in the year 2015, the application filed by the petitioner is forwarded to the Committee. The Committee has not taken any decision upon it.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. It is accepted by respondent No. 3 that the departmental enquiry has not been initiated against the petitioner. The criminal case against the petitioner is filed on account of the wife of the petitioner setting herself on fire and on that count, the crime for the offences punishable under Sections 306, 498-A, 323 read with 34 of the Indian Penal Code is registered against the petitioner. The charges against the petitioner are not with regard to his employment with respondent No. 3. No departmental enquiry has also been initiated against the petitioner, nor it is stated that respondent No. 3 contemplates to initiate any departmental enquiry. For more than almost four years, the petitioner is under suspension. No purpose would be served by keeping the petitioner under suspension even after four years, more particularly when the departmental enquiry is not initiated nor is contemplated to be initiated. So also, there are no charges against the petitioner with regard to his employment.

8. Considering the above, the impugned order passed by the Committee headed by respondent No. 2 is quashed and set aside. Respondent No. 3 shall revoke the suspension of the petitioner within a period of fifteen days. With these directions, the Writ Petition is disposed of. No costs.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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