

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

**REVIEW APPLICATION NO.39 OF 2017
IN
WRIT PETITION NO.10917 OF 2015**

The State of Maharashtra,
Through: The Secretary,
Water Resource Department,
Mantralaya, Mumbai
and others.

...APPLICANTS

VERSUS

Shri S. Prabhakar,
Age-61 years,
Occu:Retired Sectional Engineer,
R/o-House No. 1-18-88,
Sundar Nagar, Near Karba Nagar,
Purna Ring Road, Nanded, Dist-Nanded,
At present Plot No.4, Saidharni Nagar,
Phase II, Post Nagaram Mandal, Keesara,
Gangareddy, Dist-Hyderabad-500 083.

...RESPONDENTS

...
Mr.R.V. Dasalkar, A.G.P. for Applicants.
Mr.S.D. Joshi Advocate for Respondent.

...

**CORAM: S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : 23RD JUNE, 2017

ORDER :

1. This is an Application for review of the order dated 29th March, 2016 passed by this Court in Writ Petition No.10917 of 2015 (CORAM: S.S. SHINDE AND SANGITRAO S. PATIL, JJ.)

2. Learned A.G.P. appearing for the Review Applicant invites our attention to Ground No.1 and submits that the charge-sheet was served upon the Respondent on 5th November, 1990, and pursuant to service of the charge-sheet, Respondent participated in the enquiry and filed his response. Therefore, he submits that the observations in Para-3 of the order under review that charge-sheet was served upon the Respondent in the year 2003 i.e. after retirement of the Respondent, are contrary to the factual position. Though as many as nine grounds are taken in the Review Application, during the course of arguments, the learned A.G.P. restricted the scope of this Review Application to Ground No.1 only and

in particular factual error occurred in observing in Para-3 of the order under review that charge-sheet was served upon the Respondent in the year 2003.

3. Learned counsel appearing for the Respondent submitted that, it is true that charge-sheet was served upon the Respondent on 5th November, 1990, and pursuant to it the Respondent did participate in the enquiry. However, he submits that the Writ Petition was heard on merits as well and this Court in Para-4 of the order under review, adverted to the reasons/observations made by the Maharashtra Administrative Tribunal in Paras-13 to 15 of the Judgment of the Maharashtra Administrative Tribunal. Therefore, he submits that the Review Application may be rejected.

4. It is true that while deciding the Writ Petition, in Para-3 of the order it is mentioned that charge-sheet was served upon Respondent in

the year 2003. However, on admitted position charge-sheet was served upon the Respondent on 5th November, 1990. In that view of the matter, the observations made in Para-3 of the order under review stands reviewed and set aside to the above extent. So far other part of the order under review is concerned, the same is maintained.

5. Consequently, with the above observations, the Review Application stands partly allowed and disposed of.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

asb/JUN17