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

WRIT PETITION NO.10385 OF 2017

Surendrasingh Govindsingh Rajput,
Age: 51 years, Occ: Service as
Assistant Engineer in MSEDCL-
Presently under suspension
At Circle Office, MSEDCL, Latur,
Dist. Latur, R/o. Vishal Nagar,
Opp. Sai Mandir, Latur.

..PETITIONER

VERSUS

1. Maharashtra State Electricity
Distribution Company Ltd.
(MSEDCL) Having office at
'Prakashgad', 6th Floor,
Station Road, Bandra (East),
Mumbai 400 051
Through its Managing Director.

2. The Joint Managing Director,
MSEDCL, Regional Office,
Aurangabad.

..RESPONDENTS

Mr Ajay S. Deshpande, Advocate for petitioner;
Mr U.S. Malte, Advocate for respondent Nos.1 & 2

**CORAM : SHANTANU S. KEMKAR &
NITIN W. SAMBRE, JJ.**

DATE : 22nd AUGUST, 2017

ORAL ORDER :

By filing this writ petition under Article
226 of the Constitution of India, the petitioner

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has challenged the order dated 10th August, 2017 (Exhibit-H) passed by Joint Managing Director-respondent No.2. Although, we find that the said order is appealable but keeping in view the fact that while passing the impugned order, respondent No. 2 has not taken into consideration the directions issued by this Court on 16th September, 2016 while deciding Civil Application No. 15643 of 2015 in Writ Petition No.4758 of 2014 filed by the petitioner. In the said order, this Court had directed the Enquiry Officer to allow the applicant-petitioner to cross examine the witnesses that may have been examined by respondent-employer and further to allow the applicant-petitioner to adduce his evidence.

2. It has been stated by learned Counsel for the petitioner that the Enquiry Officer had concluded the inquiry on 19th July, 2014 and after passing of the said order by this Court on 16th September, 2016, it was incumbent upon the Enquiry Officer to have complied with the directions

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contained in the said order as aforesaid. Having not done so, according to the petitioner, the impugned order passed by respondent No. 2 is liable to be set aside.

3. Learned Counsel for respondent Nos. 1 and 2 submits that after passing this order, the petitioner submitted representation dated 29th September, 2016 (Exhibit-G), in which, no specific details of the witnesses were given and in the circumstances, the impugned order has been passed.

4. Having considered the submissions made by learned Counsel for the parties and having gone through the said order dated 16th September, 2016, as also inquiry report and impugned order, we are of the view that while passing the impugned order, respondent No.2 has failed to take into consideration the directions contained in the order passed by this Court on 16th September, 2016. In the circumstances, in our considered view, the impugned order cannot be sustained.

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5. As a result, we set aside the impugned order and remand the matter back to the Enquiry Officer for giving opportunity to the applicant-petitioner, as also to respondent Nos. 1 and 2 to lead their evidence, if any, with opportunity to the petitioner to cross examine the witnesses as may be produced. After closure of evidence by respondent Nos.1 and 2, the petitioner shall lead his evidence and evidence of his witnesses, if any, and keep all the witnesses present for being examined on the date as may be fixed by the Enquiry Officer.

6. Learned Counsel appearing for the petitioner made a statement that the petitioner shall fully co-operate in early disposal of inquiry proceedings and shall not seek unnecessary adjournment.

7. The petitioner to appear before the Enquiry Officer on 6th September, 2017 at 11-00

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a.m. The Enquiry Officer shall conclude inquiry in terms of this order, as expeditiously, as possible, but in any case, not later than one month from the date of appearance of the petitioner before him.

8. With the aforesaid directions, writ petition is disposed of.

(NITIN W. SAMBRE, J.)

(SHANTANU S. KEMKAR, J.)

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