

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

Writ Petition No. 10886 of 2017

District : Jalgaon

Ganesh s/o. Tukaram Pachpohe,
Age : 49 years,
Occupation : Govt. Service,
R/o. A2, 1203, Vertex Solitaire,
Near Mohan Heights,
Kalyan (West), Dist. Thane.

.. Petitioner.

versus

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

2. The Regional Executive Director-II,
and Competent Authority,
MSEDCL, having its office at
Building No.2, Flat No.1 and 2,
Officers' Colony,
Ganeshkhind Road,
Pune - 411 016.

3. The Chief Engineer and
Competent Authority,
Jalgaon Circle, Jalgaon,
District Jalgaon.

.. Respondents.

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Mr. S.S. Thombre, Advocate, for the petitioner.

*Mr. A.S. Bajaj, Advocate, for respondents
no.01 to 03.*

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**CORAM : R.M. BORDE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 25TH SEPTEMBER 2017

ORAL JUDGMENT *(Per R.M. Borde, J.):*

01. Rule. Rule made returnable forthwith. By consent, heard finally.

02. The petitioner is employee of respondent - Maharashtra State Electricity Distribution Company Ltd. [MSEDCL]. While functioning as Additional Executive Engineer, he is alleged to have accepted illegal gratification of Rs. 25,000/-and was apprehended by the Anti-Corruption Bureau on 05.07.2016 while accepting the amount. A criminal case has been instituted against him under the provisions of Prevention of Corruption Act, 1988 and the criminal case is pending at the stage of trial.

03. The petitioner is also alleged to have indulged into certain other irregularities in respect of which charges have been framed. On perusal of the charge-sheet tendered on 14.12.2016, it does appear

that the same relates to two instances. The instance no.01 in the charge-sheet relates to acceptance of illegal gratification and pendency of criminal case for offence punishable under the provisions of Prevention of Corruption Act. Whereas second instance relates to certain irregularities and alleged misconduct while functioning at Dharangaon Division.

04. The petitioner contends that the allegations levelled against him and the evidence relied upon by the prosecution in the criminal case lodged against him in respect of commission of offence under the provisions of Prevention of Corruption Act would be similar as in the case of departmental proceedings in respect of instance no.01 quoted in the charge-sheet. The departmental proceedings in respect of incidental charges framed under the case of instance no.01 shall not proceed against him.

05. The petitioner relies upon judgment of the Apex Court in the case of *State Bank of India and others Vs. Neelam Nag* [2016(8) SCALE 826] as well as judgment

delivered by Division Bench of this court in Writ Petition No. 04758 of 2014 and other companion matters decided on 23rd September, 2015. In the matter referred to above, direction was issued to the court dealing with the criminal charges to conclude the proceedings expeditiously and within prescribed time frame and the departmental proceedings initiated against the petitioner in respect of charge for commission of offence under the Prevention of Corruption Act was directed to be stayed.

06. In the instant matter, part of the charges levelled against the petitioner based upon instance no.01 are identical and the evidence that would be relied upon by the prosecution in the criminal case and by the employer in the enquiry proceedings would be one and the same. In this view of the matter, the departmental proceedings in respect of the charges founded upon instance no.01 quoted in the charge-sheet shall have to be stayed until conclusion of criminal proceedings or for a limited period that would be specified and prescribed as one year.

07. Hence, the following order :-

(a) The writ petition is partly allowed.

(b) We direct the court dealing with the criminal charges against the petitioner to conclude criminal trial as expeditiously as possible and preferably within a period of one year from the date of this order.

(c) There shall be interim stay to the ongoing disciplinary proceeding against the petitioner, to the extent of charges founded upon instance no.01 contained in the charge-sheet dated 14.12.2016, which shall remain in force for a period of one year from the date of this order.

(d) We hope and trust, that the trial court will take effective steps to ensure that the witnesses are served, appears and are examined and criminal trial is concluded within the time frame prescribed above.

(e) The petitioner, who is accused in criminal case, shall cooperate with the trial court for early disposal of criminal proceedings.

(f) 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

petitioner shall be resumed and concluded by the Enquiry Officer, in respect of the charges founded on instance no.01 recorded in the charge-sheet dated 14.12.2016.

(g) So far as charges founded on instance no.02 quoted in the charge-sheet dated 14.12.2016, those are distinct and have no connection with the criminal proceedings. The employer may proceed with the enquiry against the petitioner herein, to the extent of charges founded on instance no.02 and may record appropriate decision on conclusion of the proceedings. The order of interim stay which has been granted in respect of charges founded on instance no.01 quoted in the charge-sheet dated 14.12.2016 shall not operate in respect of such distinct charges.

(h) Rule made absolute in the above terms. In the circumstances of the case, there shall be no order as to costs.

(Smt. Vibha Kankanwadi)
JUDGE

(R.M. Borde)
JUDGE

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