

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10409 OF 2016

Popat Ramdas Choudhari

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri N. L. Choudhari, Advocate for the Petitioner.

Mrs. R. P. Gour, A. G. P. for Respondent No. 1.

Shri Nilesh N. Desale, Advocate for Respondent No. 2.

Respondent Nos. 3 to 5 served.

CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.

DATE : 28th September, 2017

PER COURT :

1. Mr. Choudhari, learned counsel submits that the petitioner was working as Junior Engineer in Zilla Parishad, Dhule. The learned counsel submits that, on or about 29.6.2016 Departmental Enquiry was initiated against the petitioner and thereafter on 11.8.2016 petitioner was suspended by Secretary (EGS). According to the learned counsel, the said suspension order was not issued by his Appointing Authority. The learned counsel submits that, the enquiry is also concluded and the Enquiry Report is in favour of the petitioner, the same has been sent to the Government, however, no decision is taken on it. The petitioner is kept under suspension for more than 1 year.

2. Mr. Desale, learned counsel for the respondent - Zilla Parishad submits that, the enquiry against the petitioner has

been concluded. The Enquiry Report exonerates the petitioner and the same has been sent to the Government.

3. Learned A. G. P. on instructions, states that the said Enquiry Report was submitted to the Government without any opinion / recommendation of the Chief Executive Officer and the same has been sent back to the Chief Executive Officer for his opinion.

4. It is for more than a year the petitioner is suspended. As stated by the learned counsel for the Zilla Parishad that the enquiry is also concluded and the Enquiry Report exonerates the petitioner. As enquiry is already concluded the very purpose of placing the petitioner on suspension would not survive. Naturally, further decision can be taken by the Disciplinary Authority on the basis of Enquiry Report which would be binding on the parties subject to challenge before the Appropriate Forum.

5. Considering the above conspectus of the matter, the order of suspension dated 11th August, 2016 is quashed and set aside.

6. The writ petition is accordingly allowed. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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