

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

WRIT PETITION NO. 10934 OF 2015

Khema Sonaji Dagale,

Age : 47 years, Occu. Service,

R/o. Rajur, Taluka Akole,

District Ahmednagar

Petitioner...

Versus

Maharashtra State Road Transport Corporation,

Sarjepura, Kotla, Ahmednagar Division,

Ahmednagar, through its Divisional Controller **Respondent...**

.....
Mr Parag V. Barde, Advocate for the petitioner
Mr B. S. Deshmukh, Advocate for the respondent
.....

**CORAM : R. M. BORDE &
A. M. DHAVAL, JJ.**

DATE : 13TH JULY, 2017.

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

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at admission stage.

2. The petitioner is praying for issuance of directions to respondent to stay the departmental inquiry proceedings initiated against the petitioner until the conclusion of the criminal case pending against him in respect of the same charge. The petitioner is charged for committing misappropriation of an amount of Rs. 6460/- and a charge-sheet has been issued to him by the Department on 02.06.2015. In respect of the identical charge, a First Information Report bearing Crime No. I-12/2015 has been lodged against the petitioner on 24.03.2015. It is informed that the police have conducted an investigation and the charge-sheet has also been presented to the Court. The criminal case being RCC No. 56 of 2016 is pending against the petitioner before the Judicial Magistrate First Class, Akole, District Ahmednagar (hereinafter referred to as "JMFC, Akole").

3. The counsel appearing for the petitioner informs that though the charge-sheet has been presented in the year 2016, no charge has been framed against the accused as yet. There is no dual opinion as regards the fact that the allegations levelled in the criminal case and the charge framed against the petitioner during the departmental proceedings initiated against him are based on the identical allegation i.e. misappropriation of sum of Rs. 6460/-. The

petitioner placed reliance on the judgment of the Hon'ble Supreme Court in the case of Stanzen Toyotetsu India Private Limited Versus Girish V. And Others reported in (2014) 3 SCC 636 and contends that it would be desirable to direct stay of the departmental proceedings initiated against him until conclusion of the criminal prosecution. Reliance is also placed on the judgment of the Hon'ble Apex Court in the case of Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. reported in 1999 (3) SCC 679 and others matters. In the matter of Stanzen Toyotetsu India (cited supra), the Hon'ble Supreme Court has observed in para 19 of the judgment as follows:

19. In the circumstances and taking into consideration all aspects mentioned above as also keeping in view the fact that all the three Courts below have exercised their discretion in favour of staying the on-going disciplinary proceedings, we do not consider it fit to vacate the said order straightaway. Interests of justice would, in our opinion, be sufficiently served if we direct the Court dealing with the criminal charges against the respondents to conclude the proceedings as expeditiously as possible but in any case within a period of one year from the date of this order. We hope and trust that the trial court will take effective steps to ensure that the witnesses are served, appear and are examined. The Court may for that purpose adjourn the case for no more than a fortnight every time an adjournment is necessary. We also expect the accused in the criminal case to cooperate with the trial court for an early completion of the proceedings. We say so because experience has shown that the trials often linger on for a long time on account of non-availability of the defence lawyers to cross-examine the witnesses or on account of adjournments sought by them on the flimsiest of the

grounds. All that needs to be avoided. In case, however, the trial is not completed within the period of one year from the date of this order, despite the steps which the trial court has been directed to take the disciplinary proceedings initiated against the respondents shall be resumed and concluded by the inquiry officer concerned. The impugned orders shall in that case stand vacated upon expiry of the period of one year from the date of the order.

4. In view of the observations made by the Hon'ble Supreme Court in the judgment cited above, it is desirable to direct the trial court to conclude the criminal trial pending against the petitioner within the specified time frame. Learned JMFC, Akole is thus directed to conclude the hearing & recording of evidence in RCC No.56 of 2016 including the delivery of judgment as expeditiously as possible, preferably within a period of one year from today.

5. The petitioner herein undertakes to cooperate with the criminal court in expeditious disposal of the criminal case against him. The respondent–Maharashtra State Road Transport Corporation shall also ensure availability of all the prosecution witnesses during the course of trial before the learned JMFC, Akole, before whom the trial is pending.

6. In the event of failure of the trial court to complete the trial within the time frame stipulated above, it would be open for the

authority i.e. respondent to conclude the departmental proceedings after completion of period of one year and proceed to record the final conclusion. In such eventuality, stay of the departmental proceedings shall stand vacated after completion of period of one year in the event the trial court fails to conclude the trial being proceeded against the petitioner.

7. Rule is accordingly made absolute.

[A. M. DHAVALE]
JUDGE

[R. M. BORDE]
JUDGE

sgp