IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 5501 OF 2016

1. The Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune

2. The State of Maharashtra, Through the Principal Secretary, Revenue Department, Mantralaya, Mumbai-400 032. ....Petitioners
(Original Respondents)

V/s.

Shri. Subhash Babu Patekar Occ-Retired, R/at-2361, New Modikhana Camp, Pune .....Respondent
(Original Applicant)

Mr. Vishal Thadani, AGP for the State, petitioner.

Mr. Bhushan A. Bandiwadekar, Advocate for the respondent.

CORAM :- **SMT. V.K. TAHILRAMANI, &**
SANDEEP K. SHINDE, JJ.

DATE :- **21ST JULY, 2017.**

ORAL JUDGMENT (PER :- SMT. V.K. TAHILRAMANI, J) :

1. Rule. By consent, Rule is made returnable forthwith and the matter is heard finally.

2. Heard Learned Counsel for the petitioner and the Learned Counsel for the respondent.

3. On 11th September, 2007 chargesheet was served by the petitioner on the respondent. The respondent retired on superannuation on 31st January, 2012. In respect of disciplinary proceedings, the respondent approached Maharashtra Administrative Tribunal by filing an Original Application No.119 of 2013. By Judgment and Order dated 24th August, 2015 the Tribunal disposed of the Original Application. The operative part of the order of the Tribunal reads thus :

> "In view of the foregoing, the Original Application is disposed of with a direction that D.E. pending against the applicant be concluded by 31.12.2015 and in the event the said deadline is not met the charge sheet shall stand quashed ipso facto"

. For challenging the said order, present petition has been filed. The presentation form shows that, this petition was filed on 28th March, 2016.

4. The learned counsel for the petitioner submitted that there are very serious charges against the respondent in the chargesheet and considering the seriousness of the charges, the Tribunal ought not to have passed a self-operative order on the Original Application. He submitted that, this Court may at least extend the time given by the Tribunal.

5. We have given careful consideration to the submissions. The respondent had retired on 31st January, 2012. The enquiry was initiated in 2007, the chargesheet

was served on the respondent on 11th September, 2007. As the enquiry was not completed till December, 2012, the respondent filed an Original Application before the Tribunal. The Tribunal permitted the enquiry to be completed by 31st December, 2015. In fact, the petitioners should have approached the Tribunal for extension of time but that was not done. In fact, nothing was done till 28th March, 2016 when this petition was filed. This petition was preferred long after the time period stipulated by the Tribunal had expired.

6. Today, in July, 2017 if time for completion of enquiry is extended which ought to have been completed on 31st December, 2015 the respondent who has retired on 31st January, 2012 will have to face disciplinary proceedings after five and half years after the date of his retirement.

7. Considering the above facts, this is not a fit case where interference is called for under Article 226 of

the Constitution of India. Writ Petition is rejected. Rule is discharged.

(SANDEEP K. SHINDE, J) **(SMT. V.K. TAHILRAMANI, J)**