

NSC.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.13287 OF 2017

Hrishikesh Vasantao Kumbhar

...Petitioner

-Versus-

The State of Maharashtra and Ors.

...Respondents

Mr.Y.D.Patil, for the Petitioner.

Mr.B.V.Samant, A.G.P for the Respondent-State.

***CORAM: S.C. DHARMADHIKARI &
SMT.BHARATI H. DANGRE, JJ.***

DATED : 7th DECEMBER, 2017

P.C. :

1. By this writ petition under Article 226 of the Constitution of India, the petitioner is desirous that we should interfere when the departmental enquiry is going on against him.

2. We had indicated to the petitioner that we are not impressed by the petitioner's request to engage an advocate so as to defend him in the disciplinary/departmental enquiry which is going on. We indicated to him

that there is nothing in the Rules, which enables the petitioner to insist as of right that he must be allowed to avail of the services of an advocate, so as to defend him. In the teeth of the Rules which do not allow any such request to be granted, the petitioner is rightly refused such assistance or the authority cannot be said to be in error in refusing to take any cognizance of the petitioner's application of the above nature.

3. Given this situation, the petitioner says that he does not wish to engage an advocate but would avail of the services of an co-employee/next friend to defend him in the enquiry.

4. Let such an application be made to the Enquiry Officer and the same shall be considered in accordance with law. An order should be passed on such an application, uninfluenced by the earlier rejection or refusal to take cognizance. Secondly, the point as to whether the departmental enquiry itself could have been instituted after the criminal proceedings were launched or parallely, that point is kept open for being raised during the course of the enquiry and further in the event the petitioner is visited with any major penalty on the conclusion of the enquiry. We do not wish to express any opinion on this point.

It is open to be raised at an appropriate stage.

5. With the above directions, the writ petition is disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)