

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

**WRIT PETITION NO. 10966 OF 2016
ALONGWITH
CIVIL APPLICATION No. 3142 OF 2016**

Mr. Swapan Garain ... Petitioner
V/s.
Chairman, University Grants
Commission (UGC) & Ors. ... Respondents

Mr. Rafique A. Shaikh for the Petitioner.
Mr. Neel G. Helekar for Respondent No.1.
Mr. V.K. Wasnik i/b Ms. Radhika Samant for Respondent Nos.2 & 4.
Mr. N.C. Walimbe, A.G.P. for the State-Respondent No.6.
Mr. Hemant Talekar for Respondent Nos.3 and 7.

**CORAM : ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.
DATE : 26th APRIL, 2017.**

FINAL ORDER :

1 The Petitioners seeks leave to delete respondent Nos.1, 2, 3, 5, 6 and 7. Request is accepted and deletion to be carried out forthwith in the Petition as well as in the Civil Application.

2 With the consent of the parties, we have heard the main Petition itself and have considered the submissions of the learned Advocates.

3 There is no dispute that Respondent No.4 which is the employer of the Petitioner has engaged an advocate to represent the Management in the departmental enquiry being conducted against the Petitioner. It is also undisputed that the Petitioner has been suspended on 29.03.2016. Grievance of the Petitioner is that suspension allowance in accordance with the rules applicable has not been paid and Respondent No.4 employer is in arrears.

4 The Petitioner also makes a grievance that the enquiry has been going on for quite some time. Learned counsel for Respondent No.4 submits that the Petitioner is delaying the enquiry. Considering the order that we intend to pass, we are not going into this disputed aspect as regards who amongst the Petitioner and Respondent No.4 is causing a delay.

5 Considering the above and by the consent of the parties, this Petition and the Civil Application are disposed of with the following directions :-

a) If the Petitioner, who is a chargesheeted employee, makes an application for appointment/engagement of an Advocate

as his defence representative or if such an application is pending before the Enquiry Officer, the Enquiry Officer shall allow the said application keeping in view the law that when the management has engaged an Advocate to represent its cause in the departmental enquiry, a chargesheeted employee also has to have given the assistance of an Advocate if so sought by him.

b) Considering that the enquiry is pending for practically one year, the Enquiry Officer, by following the due procedure laid down in law, shall complete the enquiry within 60 days from the date of the appearance of the Advocate on behalf of the Petitioner.

c) Respondent No.4 is illegally obliged to pay the suspension/subsistence allowance to the Petitioner strictly in accordance with the rules and in the event of any arrears, shall ensure the payment of such outstanding suspension/subsistence allowance within four weeks. Request for extension of time shall not be entertained.

6 This Petition is disposed of with these directions. C.A. is also disposed of.

(RAVINDRA V. GHUGE, J.)

(ANOOP V. MOHTA, J.)