

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

WRIT PETITION NO. 1918 OF 2017

The State of Maharashtra & Ors.

... Petitioners

VERSUS

Ratan Anandrao Suradkar

... Respondent

.....
Mr P. S. Patil, AGP for petitioners/State
Mr P. S. Paranjape, Advocate for respondent
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 30TH JANUARY, 2018.

ORDER:

1. The petitioner assails the order of Maharashtra Administrative Tribunal allowing the Original Application thereby setting aside the order dt. 12.12.2011, starting departmental enquiry against the present respondent.

2. Mr Patil, the learned AGP for the State, states that in the Original Application, by way of an interim order, the Tribunal had stayed the departmental enquiry initiated by the petitioner against the respondent and while passing the final order observed that the

charges were framed against the present respondent on 12.12.2011 and nothing has happened till date. As such, continuation of departmental inquiry will be futile exercise. Learned AGP submits that, because of the interim orders of stay to Departmental Enquiry in operation, the Departmental Enquiry could not be proceeded. The learned AGP further submits that, one of the grounds for setting aside the Departmental Enquiry as observed by the Tribunal was that the respondent has retired. On the contrary, the respondent is still in service and officiating his duties. The impugned order is passed on wrong premise.

3. Mr Paranjape, learned counsel for respondent accepts that the present respondent is still in service and officiating as Naib Tahsildar. According to the learned advocate, the respondent has been acquitted on all counts in the criminal case lodged against him. In fact, the charges in the departmental enquiry would be the same. No purpose would be served by proceeding with the departmental inquiry. The learned advocate, in alternate, submits that there is no point in prolonging the matter. In case the departmental enquiry is initiated and some adverse orders are passed against the respondent, the respondent undertakes to return the benefits.

4. We have considered the submissions advanced on behalf of the respective parties.

5. It is a matter of record that the Tribunal by its interim order on 14.08.2012 has stayed the departmental enquiry. The Original Application is finally decided under the impugned order on 20.10.2016 and the departmental inquiry is quashed on the ground that since December-2011, the inquiry has not proceeded further. The observation of the Tribunal, it appears, is in ignorance of the interim order passed by the Tribunal. The department could not have proceeded with the inquiry in view of the interim order passed by the Tribunal. Further, it appears, that the Tribunal was under misconception that the respondent has already retired. As accepted by the respondent, the respondent is still in service and officiating his duties. The said ground also not in consonance with the facts involved. Mr Paranjape, the learned Advocate submits that, after the judgment was delivered he had moved the Tribunal for correction to the effect that petitioner has not retired. The Tribunal has deleted the sentence "the petitioner has retired" from the judgment.

6. It is trite that, the departmental enquiry can be proceeded further by the department. The reasonings given by the Tribunal for

setting aside the departmental enquiry are not in consonance with the facts on record. On the contrary, the said observations are against the record.

7. In light of the above, the order passed by the Tribunal is modified as under.

- (i) The petitioner is at liberty to initiate departmental inquiry against the respondent in accordance with law.
- (ii) Till then, as the respondent is already reinstated in service, the petitioner shall treat the respondent in regular service as a regular employee and give the benefit of increments and other aspects as admissible.
- (iii) In the event, on conclusion of the departmental inquiry if the petitioner is found guilty then the petitioner on conclusion of departmental inquiry may take decision with regard to the suspension period and all other aspects in conformity with the decision of the disciplinary proceedings. In that event, the

respondent would not claim any equity if recovery is claimed.

(iv) The departmental inquiry shall be concluded within three months.

8. The writ petition is, accordingly, disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde