

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

23 WRIT PETITION NO. 3778 OF 2018

**VIJAY GANESH KATHAR
VERSUS
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY
LTD., AND OTHERS**

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Advocate for Petitioner : Mr.P.L.Shahane and
Mr.P.P.Shahane
AGP for Respondent Nos.3 & 4 : Ms.H.M.Manglani
h/f. Mr.A.S.Bajaj

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**CORAM : R.M.BORDE AND
K.K.SONAWANE, JJ.**

DATE: 16th April, 2018

PER COURT:-

1. The petitioner is in employment of respondent No.1 Maharashtra State Electricity Distribution Company Ltd. He was apprehended while accepting bribe and First Information Report alleging commission of offences under the provisions of Prevention of Corruption Act has been registered against him bearing No.3046 of 2014 at Sillod Police Station on 18.6.2014. Departmental enquiry has been initiated by the employer and the charges have been served on petitioner on 23.2.2016.

2. The charges at serial Nos.1 to 3, 6 and 7 are referable to criminal act of accepting illegal

gratification attributed to the petitioner. So far as charge at serial No.4 is concerned, the Department alleges violation of Rules, Regulations, Circulars and directives of the Company by the petitioner, whereas charge No.5 relates to negligence in performance of the duties by the petitioner. The charges levelled against the petitioner concerning commission of offences punishable under the provisions of Prevention of Corruption Act, are separable from the charges relating to charge of negligence in performance of duties.

3. Petitioner places reliance on the judgment delivered by this Court in Writ Petition No. 4758/2014 and other companion matters decided on 23.09.2015. This Court, referring to the judgments in the matter of Stanzen Toyottetsu India P. Ltd. Vs. Girish V. and others reported in **2014(3) SCC 636**, Capt.M.Paul Anthony Vs. Bharat Gold Mines Ltd. reported in **1999(3) SCC 679**, G.M. Tank Vs. State of Gujrat and others reported in **2006(5) SCC 446** and Indian Overseas Bank, Anna Salai and Anr. Vs. P. Ganesan and others reported in **2008 AIR (SC) 553** so also other judgments in the matter of Shrikant Jain Narmada Prasad Jain Vs. Secretary, Ministry of Coal and others reported in **2009(2) Bom.C.R. 174**,

Deepak Narayan Joshi Vs. Hindustan Organic Chemicals Limited and others reported in **2013(3) All M.R. 727**, Noida Entrepreneurs Association Vs. NOIDA and others reported in **2007(10) SCC 385** and Babulal Verma Vs. Union of India and another reported in **2008(2) All M.R. 556** has come to the conclusion that simultaneous continuance of proceedings before the Criminal Court as well as departmental proceeding is likely to cause prejudice to the delinquent and it would be advisable to stay the departmental proceeding. In view of the law laid down in the judgments referred to above, we deem it appropriate to issue directions to respondent - employer as detailed below :

ORDER

i) Sessions Court, Aurangabad is directed to conclude criminal proceeding initiated against petitioner, as expeditiously as possible, preferably within a period of one year from the date of the order.

ii) In the meanwhile, there shall be interim stay to the ongoing disciplinary proceedings in respect of charges levelled against petitioner referable to the allegations relating to acceptance of

illegal gratification i.e. charges number 1 to 3, 6 and 7, for a period of one year which shall remain in force for a period of one year from the date of this order.

iii) It would be open for the respondents to proceed against the petitioner in respect of charges contained in paragraph nos.4 and 5 relating to allegations concerning causing financial loss to the company as a result of negligent act of petitioner.

iv) In the event of failure to complete the trial for any reason within the time stipulated above, it would be open for the respondents to proceed against the petitioner departmentally and continue with the departmental proceeding relating to charges referable to criminal act of acceptance of illegal gratification which is subject matter of criminal proceeding before the Sessions Court at Aurangabad and conclude the departmental enquiry.

v) In the nutshell, stay to the departmental proceeding in respect of

charges referable to the criminal act under the provisions of Prevention of Corruption Act shall be operative for a period of one year from today and nothing beyond the aforesaid date.

4. In view of above, writ petition stands disposed of.

(K.K.SONAWANE)
JUDGE

(R.M.BORDE)
JUDGE

SPT