

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

WRIT PETITION NO. 5907 OF 2017

Dilip S/o Kashiram Patil & Anr. ... Petitioners

VERSUS

Chief Executive Officer & Ors. ... Respondents

.....

Mr Paresh B. Patil, Advocate for the petitioners
Mr N. S. Choudhary, Advocate for respondents No. 1 to 4
Mr S. B. Pulkundwar, AGP for respondent/State

.....

WITH

CIVIL APPLICATION NO. 13652 OF 2017

IN

WRIT PETITION NO. 5907 OF 2017

Gulab S/o Jagannath Patil ... Applicant

VERSUS

Dilip S/o Kashiram Patil & Ors. ... Respondents

.....

Mr Vijay B. Patil, Advocate for the applicant
Mr Paresh Patil, Advocate for respondents No. 1 and 2
Mr S. B. Pulkundwar, AGP for respondent/State

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

DATE : 22ND JANUARY, 2018.

ORDER:

1. It is submitted that, during the pendency of the petition the petitioner has been reinstated subject to the decision in the disciplinary inquiry.

2. Mr. P. B. Patil, the learned counsel for the petitioner submits that, as yet the disciplinary inquiry is not concluded and directions are given to launch the criminal case against the petitioner. According to the learned counsel, the same is not permissible unless and until the departmental inquiry is concluded. The learned counsel submits that, there is nothing on record to suggest the implication of the petitioner in the alleged act. In view of that also, the criminal case could not have been directed to be initiated against the petitioner.

3. Mr. Choudhari, the learned counsel for respondents No. 1 to 4 submits that, the disciplinary inquiry against the petitioner is in progress. The directions to launch the criminal case is on the basis of the preliminary inquiry conducted.

4. Both the parties are referring to the circular dt. 04.01.2017.

5. The respondents would be entitled to file a criminal case only if a preliminary inquiry has been conducted and in the preliminary inquiry, *prima facie* the guilt of the accused is noticed.

6. In case the preliminary inquiry is conducted and guilt of the petitioner is noticed then the respondents can proceed further to file

the criminal case. In that event, it will be open for the petitioner to assail the said criminal proceedings filed on the ground admissible to him.

7. With these observations, the writ petition is disposed of.

8. In view of disposal of writ petition, Civil Application also stands disposed of.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde