

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

989 WRIT PETITION NO. 9553 OF 2016

- . Nivrutti Devrao Raut
Age: 58 years, Occu.: Service
as Jr. Technician,
MSEDCL Section Office,
Kalamnuri, at Gaulbazar in
Hingoli District
(under suspension),
R/o.Gaulbazar, Tah.Kalamnuri,
Dist.Hingoli. ..Petitioner

VERSUS

1. Maharashtra State Electricity
Distribution Company Limited,
Through : Its Managing Director,
6th Floor, 'Prakashgad',
Bandra (East), Mumbai 400 051.
2. The Executive Director
(Distribution-4/Projects),
AND Competent Authority,
M.S.E.D.C.L. Ltd., 4th Floor,
'Prakashgad', Anant Kanekar Marg,
Bandra (East), Mumbai 400 051. ..Respondents

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Advocate for Petitioner : Mr.A.S.Deshpande
AGP for Respondents : Mr.U.S.Malte

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

DATE: 27th April, 2018

ORAL JUDGMENT:-

(Per R.M.Borde, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, heard finally at the stage of admission.

3. The petitioner is an employee of respondent - Maharashtra State Electricity Distribution Company Limited. While functioning as Line Helper, the petitioner is alleged to have committed certain irregularities. The petitioner has been apprehended on account of acceptance of illegal gratification by Anti-Corruption Bureau on 04.01.2015, and as such the offence punishable under Section 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988, has been registered against him.

4. The petitioner was served with a charge-sheet on 21.01.2016. The first part of the charge-sheet relates to criminal offence lodged against the petitioner under the provisions of the Prevention of Corruption Act, whereas the second part of the charge-sheet relates to the act of misconduct referable to his functions as an employee of the Company.

5. The petitioner contends that allegations levelled against him and the evidence relied upon by the prosecution in the criminal case lodged against him in respect of commission of offence under the provisions of the Prevention of Corruption Act would be similar as in the case of the departmental proceedings in respect of the charge framed in the first part of charge-sheet. Therefore, the departmental proceedings in respect of incidental charges framed under the first part of charge-sheet ought not to proceed against him.

6. The petitioner relies upon Judgment of Apex Court in the case of *State Bank of India and Others Vs. Neelam Nag* [2016 (8) SCALE, 826] as well as the Judgment delivered by the Division Bench of this Court in Writ Petition No.4758 of 2014 and other companion matters decided on 23.09.2015.

7. In the matters referred to above, direction was issued to the Court dealing with criminal charges to conclude the proceedings as expeditiously as possible and within prescribed time frame and the departmental proceedings initiated against the petitioner therein in respect of the charge for commission of offence

under the provisions of Prevention of Corruption Act, was directed to be stayed.

8. In the instant matter, nature of the charges levelled against the petitioner based upon incident of acceptance of illegal gratification are identical and the evidence that would be relied upon by the prosecution in the criminal case and by the employer in the departmental enquiry proceedings would be one and the same.

9. In this view of matter, the departmental proceedings in respect of charges founded upon the incident of acceptance of illegal gratification falling within the purview of the Prevention of Corruption Act in respect of which the criminal trial is pending, shall be required to be stayed until conclusion of criminal proceedings or for a limited period that would be specified and prescribed as one year.

10. The other charges levelled against the petitioner relating to irregularities and misconduct referable to his functions as an employee can be investigated in the departmental proceedings and the enquiry proceedings in that regard shall be allowed to be continued.

11. In view of above, we pass the following order:-

ORDER

(a) Writ Petition is partly allowed.

(b) We direct the Court dealing with criminal charges against the petitioner to conclude the trial as expeditiously as possible and preferably within a period of one year from the date of this order.

(c) There shall be interim stay to the ongoing disciplinary proceedings against the petitioner in respect of the charges founded upon acceptance of illegal gratification and forming part of the charge-sheet resulting into offence punishable under the provisions of the prevention of Corruption Act, and the operation of the order of stay shall remain in force for a period of one year from the date of this order.

(d) We hope and trust that the Trial Court shall take effective steps to ensure that

the witnesses are served, appear and are examined and criminal trial is concluded within the time frame prescribed above.

(e) The petitioner, who is accused in criminal case, shall co-operate with the Trial Court for early disposal of criminal proceedings.

(f) In case, the trial is not completed within a period of one year from today, despite the steps which the Trial Court has been directed to take, it is directed that the disciplinary proceedings initiated against the petitioner in respect of the charges, which is also the matter of criminal case, shall be resumed and concluded by the Enquiry Officer.

(g) So far as charges founded upon the other allegations not referable to the charges relating to offence punishable under the provisions of Prevention of Corruption Act are concerned and those which are distinguishable and have no connection with the criminal proceedings, the employer shall proceed with the enquiry

against the petitioner herein to the extent of the said charges and may record appropriate findings on conclusion of the proceedings.

(h) It would be open for the petitioner to take up all the contentions before the Enquiry Officer including the issue as regards correctness of charges and role of employee in connection with the said charges, in the above terms.

(i) Rule is made absolute in the above terms. No order as to costs.

(K . K . SONAWANE)
JUDGE

(R . M . BORDE)
JUDGE