

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

WRIT PETITION NO. 8768 OF 2011

Ashok s/o Baburao Gaikwad
Age : 50 years, oucc.: Govt. Service
As Education Extension Officer
(Presently under suspension)
R/o Parijat Colony, Mahabal Jalgaon,
District Jalgaon.

Petitioner.

Versus

1. The State of Maharashtra
(Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32).
2. The Divisional Commissioner
Nasik Division, Nasik.
3. The Chief Executive Officer
Zilla Parishad, Jalgaon.

Respondents.

Mr. B.R. Warma, Advocate for the petitioner.

Mr. Y.G. Gujarathi, A.G.P. for the State/respondent Nos.1 & 2.

Ms. Chaitali Choudhary Kutti, Advocate for respondent No.3.

CORAM : **T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Dated : 26th April, 2018.

JUDGMENT (PER T.V. NALAWADE,J) :-

1. The petition is filed for the following reliefs :-

- A) By issuing Writ of Certiorari or any other appropriate writ, order or direction in the like nature, the charge-sheet dated 09.12.2010 at Exh. "A" may please be quashed and set aside as arbitrary, illegal and unjustified.
- B) By issuing appropriate writ, order or direction, the departmental enquiry initiated against the petitioner vide Exh.B above may please be directed to be dropped.
- C) Any other reliefs be kindly granted to the petitioner to which he may be found entitled to under the law and in the ends of justice

2. The petitioner is an employee of Zilla Parishad, State under Article 12 of the Constitution of India. There is allegation against him that when he was working as a Supervisor on one Centre created for D.Ed. examination, he demanded Rs. 5,000/- as bribe from one Beldar. This was to show in favour while discharging the duty as Supervisor. Shri Beldar approached Anti-Corruption Bureau and trap was led. The trap became successful. A statement is made by learned Counsel for the petitioner that in the case filed under Prevention of Corruption Act, the petitioner is acquitted and even appeal filed by the State against the said decision is dismissed. He submitted that only on that ground respondent/employer ought to have dropped the enquiry. For that he placed reliance on the

observations made by the Apex Court in the case reported as **1999 AIR (SC) 1416 - M. Paul Anthony Vs. Bharat Gold Mines Limited.**

3. The observations made in the aforesaid case are of no use in the present matter in view of the peculiar facts and circumstances of the present matter. In the case like present one, Departmental Enquiry can be continued even after disposal of the criminal case. The approach and standards of proof both are different in the case like present one. In view of these circumstances, this Court holds that at present it is not possible to interfere in the Departmental Enquiry. However, this Court is making it clear that it is the responsibility of the employer to see that the relevant record which needs to be supplied alongwith the charge-sheet, is supplied to the petitioner. The grievance is there that alongwith the charge-sheet even list of witness is not supplied. On the basis of the arguments, it can be said that the Department wants to use the record of investigation of police and no preliminary inquiry as such was made by the Department. In such cases there is no necessity of preliminary enquiry and the record collected by police can be used and those statements can be used as previous statements. Copies of those statements need to be supplied to the petitioner, if those witnesses are to be examined before the Enquiry Officer.

4. With the aforesaid observations, the petition is disposed of as dismissed. Rule is discharged.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

vdd/