

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12465 OF 2018

Sree Kumaran Nair : **Petitioner.**
Versus
Union of India
Through Secretary
Ministry of Defence and ors. : **Respondents.**

Mr. Ojha Angsuman Nibhas Chandra for the Petitioner.
Mrs. Anamika Malhotra for the Respondent-Union of India.

**CORAM : R. M. SAVANT &
NITIN W. SAMBRE, JJ.**
DATE : 30th OCTOBER 2018

P.C.

1 The above Writ Petition has been filed principally seeking an order of staying the execution of sentence of imprisonment and dismissal against the Petitioner's son till exhaustion of the statutory Petition filed by the son of the Petitioner under Sections 160 and 161 of the Navy Act, and thereafter if his Appeal is rejected, then under Section 162 of the Navy Act.

2 The said sentence has been imposed upon the son of the Petitioner pursuant to the Court Martial which was held against the son of the Petitioner. The Court Martial has imposed as many as 5 punishments which are mentioned in its order which is annexed to the above Writ Petition at page 14.

3 In our view, since the sentence flows out of the punishment

imposed by the Court Martial, the remedy of the Petitioner if any for seeking the relief which we have adverted to in the earlier part of this order would be before the Armed Forces Tribunal, Mumbai

4 The learned counsel for the Petitioner Shri Ojha would contend that the Petitioner is challenging the vires of Regulation 194 (3) of the Regulations of Navy Part-II in so far as it makes a distinction between the sailor and the officer.

5 Even if such a challenge is raised in the above Writ Petition, the remedy of the Petitioner as we have indicated above is before the Armed Forces Tribunal and the fact that the challenge is raised to the vires of the said provision would not enable us to entertain the above Writ Petition. Hence by relegating the Petitioner to the remedy before the Armed Forces Tribunal, we dispose of the above Writ Petition.

[NITIN W. SAMBRE, J]

[R. M. SAVANT, J]