

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

4 WRIT PETITION NO.14188 OF 2019

Subhash Devidasrao Ingole,
Age 60 yrs., Occ. Superintendent,
Central Excise (Retired),
R/o 54, C-2, N-8, CIDCO,
Kirti Housing Society, Azad Chowk,
Aurangabad – 431 003.

... Petitioner.

... Versus ...

- 1 Union of India,
represented by The Secretary, Ad IIA
Government of India, Ministry of Finance,
Department of Revenue,
New Delhi – 110 001.
- 2 The Chief Commissioner of Central Excise (GST),
Nagpur Zone, Post Box No.81,
Telenkhedi Road, Civil Lines, Nagpur – 440 001.
- 3 The Commissioner of GST,
N-5, CIDCO, Aurangabad – 431 003.

... Respondents.

...

Mr. R.M. Sharma, Advocate for the petitioner

Mr. D.S. Ladda, Advocate for the respondent Nos.1 to 3

...

CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.

DATE : 25th NOVEMBER, 2019

PER COURT :

1 Heard learned counsel for parties, Mr. R.M. Sharma and Mr. D.S. Laddha.

2 The petitioner had been before Central Administrative Tribunal praying stay to departmental inquiry.

3 Taking stock of the situation, factual and legal position, Tribunal has considered that charges levelled against petitioner would entail departmental proceeding against him. So far as contention of violation of provisions of Prevention of Corruption Act, 1988 during the trap or otherwise is concerned, it has been observed that the issue can be raised before Special Judge, Criminal Court where he is facing trial. It has been observed by the Tribunal that where a charge, relating to misconduct is under investigation, consideration of disciplinary authority may be enforcement of discipline or to investigate level of integrity of the delinquent. In departmental proceedings, standard of proof is of preponderance of probabilities whereas in criminal proceedings, charges are to be proved by the prosecution beyond reasonable doubt.

4 The Tribunal has also considered that may be set of facts and evidence would be similar, but the purpose underlying is different and it will

not be necessary to detain the inquiry proceedings on the grounds raised in the original application.

5 Learned counsel Mr. R.M. Sharma purports to refer to “(2008) 8 SUPREME COURT CASES 236, *State of Uttaranchal and others vs. Kharak Singh*,” in respect of inquiry proceedings, the decision has hardly any application, so far as present proceedings are concerned. Though learned counsel Mr. R.M. Sharma purports to complain about non following of principles of natural justice, the same is not the subject matter in the original application and before this court. In respect of such grievance, the petitioner may have recourse to appropriate remedial measure.

6 The reasons, which have weighed with the tribunal appear to be appropriate and as such, we are disinclined to accede to request made under the writ petition.

7 Writ petition is rejected.

(Smt. Vibha Kankanwadi)
JUDGE

(Sunil P. Deshmukh)
JUDGE