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

WRIT PETITION NO. 636 OF 2019

Noor Mohammad Dost Mohammad Pathan
Age:65 years, Occu.Pensioner
R/o House No.1-7-36/5 Sahyog Nagar,
Behind S.T.Workshop, Nanded

..PETITIONER

VERSUS

1. The Government of Maharashtra
Through Principle Secretary,
Minority Development Department
7th Floor, Mantralaya Extension Bldg.
Madam Cama Road, Mumbai 400 032

2. The Dy.Secretary
Minority Development Department
7th Floor, Mantralaya Extension Bldg.
Madam Cama Road, Mumbai 400 032
Office, Aurangabad.

3. Maharashtra State Board of Wakfs,
Panchakki
Aurangabad
Through its Chief Executive Officer

4. Principle Secretary
Rural Development Department
Govt. of Maharashtra
Mantralaya Extension Bldg.
Madam Cama Road, Mumbai 400 032

..RESPONDENTS

Mr S. V. Kurundkar, Advocate for petitioner;
Mr K. N. Lokhande, A.G.P. for respondent no.1, 2 & 4.

**CORAM : PRASANNA B. VARALE
AND
S.M. GAVHANE, JJ.**

DATE : 18th January, 2019

ORAL ORDER:

Heard Mr Kurundkar, learned Counsel appearing on behalf of petitioner.

2. Mr Kurundkar fairly submitted that though the petitioner is challenging the order dated 10th November, 2016 where by an inquiry is initiated against the petitioner. The petitioner is anxious to have a proper opportunity of hearing and such opportunity is not being granted to the petitioner is the basic grievance. Mr Kurundkar also invited our attention to certain documents placed on record. It was submitted before us that the petitioner was re-appointed by order dated 10th January, 2012. A copy of the said order is placed on record at Exhibit – C. Perusal of the said order shows that initially the petitioner was working as a Project Director in the District Rural Development Organisation, Parbhani and his proposal for re-appointment was under consideration. The State Government by order dated 10th January, 2012 decided to re-appoint the petitioner post his retirement. By order dated 4th July 2013, the State Government again in its wisdom cancelled the decision of re-appointment of the petitioner. Though learned Counsel Mr Kurundkar vehemently submitted that the order dated 10th November, 2016, initiating inquiry against the petitioner is unsustainable as it refers to the provisions of the Maharashtra Civil Services Rules and these provisions would not be applicable to the petitioner , we are

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not inclined to dilate on this issue. The order dated 10th November, 2016 refers to certain alleged misdeeds of the petitioner while he was re-appointed. Mr Kurundkar then submitted that the petitioner has not been provided with the necessary material so as to oppose the inquiry effectively and an application was submitted by the petitioner to the Secretary and Special Inquiry Officer on 27th July, 2018 for submitting his written say. On instructions, learned Counsel submitted before us that there was no decision on this application and the petitioner is apprehending of an inquiry which would be proceeded without giving an opportunity to the petitioner. We are unable to accept these submissions of Mr.Kurundkar for the simple reason that immediately the document i.e. representation to the petitioner dated 27th July, 2018 at Exhibit – E, the petitioner himself has placed on record another document at Exhibit – G. This is a communication to the petitioner dated 6th November, 2018 informing the petitioner that the Special Inquiry Officer has posted the hearing on 12th December, 2018 and it is informed to the petitioner to attend this hearing on the scheduled date and at the scheduled place. Mr Kurundkar submitted that as the petitioner was before this Court by filing writ petition, the petitioner has not attended this hearing scheduled on 12th December, 2018 and forwarded an application to the authorities that the petitioner is approaching this Court.

3. Considering the aforesaid facts, we are of the opinion that by protecting the interest of the petitioner, namely, having an opportunity of

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hearing and without disturbing the inquiry schedule so that the inquiry concludes within reasonable time, the petition can be disposed of. The petitioner is permitted to approach the Inquiry Officer immediately with an application requesting for hearing either in the nature of written say or of personal hearing. The Special Inquiry Officer to consider that application and then fix the further dates in the inquiry. Needless to state that the Special Inquiry Officer by adopting the procedure settled for the inquiry either under the Service Rules or the Government Circular / Notification dealing with this aspect having an adherence to such notification /circulars conclude the inquiry as expeditiously as possible. The petitioner undertakes to appear before the Special Inquiry Officer in first week of February, 2019. If such an application / representation seeking hearing is received, the Special Inquiry Officer to decide such application immediately.

4. With the aforesaid directions petition is disposed of. It is made clear that all contentions raised in the petition are kept open.

(S.M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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