

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

44 WRIT PETITION NO.11993 OF 2019

MURTUJA MOHAMAD ALI SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
WITH
WRIT PETITION NO.11107 OF 2019

DHANRAJ SHESHRAO KETE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr Deshmukh Umakant B
AGP for Respondents State: Mr P S Patil
Advocate for Respondents 4 & 5 : Mr S B Pulkundwar

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 13th February, 2020

ORDER:

1. We asked Mr. Pulkundwar, learned counsel as to whether departmental enquiry is concluded against the petitioners. Learned counsel emphatically says that departmental enquiry is not concluded against the petitioners. Preliminary enquiry was conducted and in the preliminary enquiry, the petitioners were found liable.

2. Liability could not have been fastened on the basis of preliminary enquiry. Departmental enquiry is yet to be concluded. In the preliminary enquiry, delinquent employee does not have any opportunity to defend himself. As the departmental enquiry is not concluded, it would be premature for the respondents to seek recovery from the petitioners.

3. As far as lodging of criminal case is concerned the petitioners may take steps before the appropriate court. We are also not entertaining

the petitions to the extent of challenge to the preliminary enquiry report.

4. Recovery claimed by the respondents shall not be effectuated unless and until the departmental enquiry is conducted against the petitioners. Depending upon the finding of the departmental enquiry, the respondents may proceed further so far as recovery is concerned .

5. Writ petitions are accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC