

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11329 OF 2019

Santosh Shrirang Londhe

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

Mr. A.S. Peerzada, Advocate for the Petitioner.

Mr. T.J. Pandian, Advocate for respondent Nos.1 to 3.

**CORAM : RANJIT MORE &
SURENDRA P. TAVADE, JJ.**

DATE : 7th JANUARY, 2020.

P. C. :

1. Heard learned counsel for the respective parties.
2. The petitioner is an employee of respondent No.2. The FIR is filed against the petitioner in Daund Police Station, Daund for the offences punishable under Sections 419, 468, 167 r/w. Section 34 of the Indian Penal Code, 1860. The FIR is at the stage of investigation. Pending investigation, respondent No.2 has initiated departmental enquiry against the petitioner.
3. Learned counsel for the petitioner submits that charges in the criminal prosecution and the departmental enquiry are same and in such a case, pending the criminal prosecution, departmental enquiry is required to be stayed. According to the learned counsel for the petitioner, if the departmental enquiry is proceeded pending the criminal prosecution, then the same would be detrimental and prejudicial to petitioner's interest in the

criminal prosecution inasmuch as he would be compelled to disclose his defence.

4. Learned counsel for the petitioner relied upon the decision of Division Bench of this Court dated 23.09.2015 in Writ Petition No.4758 of 2014 and connected matters.

5. Learned counsel for respondent Nos.1 to 3 opposed the petition as well. He invited our attention to the article of charges annexed at Page No.20 of the petition and submitted that the charges in FIR and the departmental enquiry are not the same. He also relied upon Paragraph 24 of the decision of Division Bench of this Court in Writ Petition No.4758 of 2014.

6. We have gone through the FIR registered against the petitioner, a copy of which is annexed at Exhibit 'A', Page No.12 of the petition. As stated above, the FIR is registered for the offences punishable under Sections 419, 468, 167 r/w. Section 34 of the Indian Penal Code, 1860. The departmental enquiry is however initiated and chargesheet is issued for eight charges. In our view charge nos.7 and 8 are important for the purpose of present petition, which reads as under :

7. He was placed under suspension vide suspension order No.26/2019 dated 17.08.2019 he was advised to give daily attendance at DSC (Res)/SUR. But he deliberately failed to do so and remained unauthorized absent during suspension period to till date.

8. Thus SIPF Shri. S.S. Londhe found to be having indulging in fraud and undesirable activities and most unbecoming act on his part being a member of the disciplinary Force, thereby tarnished the image of the discipline force.

Thereby he has violated Rule 146.2(it), 146.3(i), 146.5 & 147(1) (2)(3) of RPF Rules 1987.

7. If the allegations in the FIR and the articles of charges are considered, then it is clear that the same are not similar. Therefore, we are of the considered view that the decision of Division Bench in Writ Petition No.4758 of 2014 is not applicable to the present petition.

8. In that view of the matter, we are of the further view that if the departmental enquiry is proceeded, then the same would not be detrimental and prejudicial to the petitioner's interest in the criminal prosecution. That apart, nine witnesses have already been examined, out of which one witness has been cross examined by the petitioner. In the light of above, we are not inclined to entertain this petition.

9. The writ petition is accordingly dismissed.

[SURENDRA P. TAVADE, J.]

[RANJIT MORE, J.]