

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2852 OF 2020

Milind Govindrao Kachare,
Aged about 54 years, Occu. - P/W in
MHADA Office, Amravati,
R/o. Yogiraj Colony, Tapowan Road,
Amravati.

.... **PETITIONER**

// VERSUS //

- 1) The State of Maharashtra,
through its Secretary,
Housing Development Department,
Mantralaya, Mumbai.
- 2) Maharashtra Housing Development
Authority, through its
Vice President/Chief Executive Officer,
Gruh Nirman Bhavan, Kala Nagar,
Bandra (E), Mumbai – 51.
- 3) Chief Officer,
MHADA Office, Tope Nagar,
Maltekdi Road, Amravati.
- 4) Enquiry Officer,
Maharashtra Housing Area
Development Authority, Mumbai,
3rd Floor Gruha Nariman Bhawan,
Kala Nagar, Bandra(E), Mumbai-51.

.... **RESPONDENTS**

Shri S. M. Vaishnav, counsel for the petitioner.
Shri A. M. Deshpande, Addl.G.P for the respondent No.1.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 16th December, 2020

ORAL JUDGMENT : (Per : SUNIL B. SHUKRE, J.)

1. Heard. **Rule.** Rule made returnable forthwith.
2. Heard finally by consent of the learned counsel appearing for the parties.
3. The main ground of challenge raised in this petition is that after completion of inquiry, no additional charge-sheet can be issued incorporating some points in the charge-sheet.
4. Learned counsel for the petitioner submits that under Rule 8 (17) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (for short “Rules of 1979”), no new evidence shall be permitted to fill up any gap in the evidence unless there is an inherent lacuna or defect in the evidence which has been produced originally. According to him, the attempt to frame additional charge against the petitioner is nothing but an effort to fill up the gap in the original evidence, without there being any inherent lacuna or defect.
5. According to Shri A. M. Deshpande, learned Addl.G.P., additional charge-sheet has been issued to the petitioner, not to fill up

any gap but because there was discovery of some new irregularities committed by the petitioner which required framing of specific charge by way of additional charge-sheet against the petitioner and there is no provision in the Rules of 1979, which place any embargo upon framing of additional charge-sheet against the delinquent employee, especially when the report of the Inquiry Officer has not been submitted. He further submitted that in the present case, before submission of the report of the Inquiry Officer, additional charge-sheet has been served upon the petitioner.

6. In the present case, there is no dispute about serving of the additional charge-sheet upon the petitioner, before the report was submitted by the Inquiry Officer. Then, there is also no provision made in the Rules of 1979, which places any embargo upon the Disciplinary Authority to incorporate additional charges and serve the additional charge-sheet upon the delinquent employee. Learned counsel for the petitioner could not show to us existence of any such provision. It would then follow that if no inquiry report has been submitted in the present case, no prejudice would be caused to the delinquent employee by serving any additional charge-sheet at a time when the inquiry is about to be concluded. It is the basic principle of law that additional charge or additional issues can always be framed any time before the

final verdict is delivered and the rationale behind such basic principle of law is to avoid causing any prejudice to the party against whom such charge or issue has been framed. If such additional charge is framed before the final report is given, opportunity of defending the delinquent would always be available and it is only in case of denial of such an opportunity that a delinquent can have such grievance. Here, the grievance is not about denial of adequate opportunity of defending the petitioner, the grievance is about impermissibility of framing of additional charge in the last stage of the inquiry. But, as stated earlier, there is no rule which prohibits framing of additional charge before submission of report by the inquiry officer. On the contrary, the memo dated 21st July, 2020 issued to the petitioner by the Disciplinary Authority shows that the further inquiry shall be conducted in respect of the additional charges which are the charges relating to items from serial Nos.3 to 14. Though from this memo it appears that further inquiry would be conducted in respect of the charges appearing at serial Nos.3 to 14 along with the inquiry in respect of the items appearing at serial Nos.1 and 2, we would make it clear here that as the inquiry in respect of items at serial No.1 and 2 is already conducted and completed, there would be no justification for the Inquiry Officer to once again inquire into the charges at serial Nos.1 and 2 and the inquiry now would have to be confined to only the charges at serial

No.3 to 14. With this clarification, we do not think that this petition can be allowed by this Court.

7. The writ petition stands dismissed.

However, it is made clear that there shall be no re-inquiry or any further inquiry into the charges at serial Nos.1 and 2, it being already completed as of now and that effective opportunity of defending himself shall be given to the petitioner in respect of the additional charges at serial Nos.3 to 14.

Rule is discharged. No costs.

(AVINASH G. GHAROTE, J.)

(SUNIL B. SHUKRE J.)