

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**WRIT PETITION NO.7095 OF 2020
WITH CA/3636/2021 IN WP/7095/2020**

**RAJARAM DAU NIMBALKAR
VERSUS
MAHARASHTRA GRAMIN BANK THROUGH ITS CHAIRMAN AND ANOTHER**

Mr.Sujeet D.Joshi, Advocate for the petitioner.
Mr.Parag Shahane, Advocate for respondent Nos. 1 and 2.
Mr.S.B.Pulkundwar, AGP for State.

**(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)**

DATE : AUGUST 6, 2021

PER COURT :

1. While issuing notice, this Court had passed an order on 19/10/2020 which reads as under :-

"1. At present, we are not convinced with the submission of Mr.Joshi, the learned Counsel for the petitioner.

2. According to the learned Counsel, the criminal prosecution is still pending and the enquiry cannot be decided in piecemeal.

3. We are afraid, the said submission would not be in tune with the earlier order of this Court dated 15.07.2015 in Writ Petition No.5644 of 2014 filed by the petitioner. The said writ petition is disposed of wherein directions were given to proceed with the enquiry vis-a-vis charges No.4 and 5 and the bank will not proceed with the departmental enquiry so far as charges No.1, 2 and 3 i.e. charges for which the criminal prosecution was also lodged.

4. The petitioner is now issued with the show cause notice with

regard to the charges No.4 and 5 which charges according to the Enquiry Officer, are proved.

5. The learned counsel for the petitioner submits that at present, he would not press for interim orders and the stand of the bank be considered.

6. Issue notice to the respondents, returnable on 2nd November, 2020."

2. There is no dispute that Rule 49 of the Maharashtra Gramin Bank (Officers and Employees) Service Regulations, 2010 provides for a right to appeal and such appeal can be filed before the Appellate Authority prescribed under Rule 50, within 45 days from the date of receipt of the order of removal or dismissal from service.

3. The learned Advocate for the petitioner submits on instructions that the petitioner desires to withdraw this petition and avail of the said remedy of appeal. He, however, has a difficulty. Charge Nos. 1 to 3 have been subjected to the criminal prosecution, which is pending. The petitioner has now suffered an order of removal from service by way of punishment since Charge Nos. 4 and 5 have been held to be proved against him.

4. Considering the above, this petition is disposed off as withdrawn. The ad-interim order dated 19/10/2020 stands vacated.

5. The petitioner would be at liberty to avail of the remedy of preferring an appeal under Rule 49, to be filed on or before 10/09/2021. Keeping in view the pendency of this writ petition from 15/10/2020 and the date of the order of removal being 21/01/2021, the time spent by the petitioner in this Court from 21/01/2021 until 10/09/2021, shall be a period, which shall be excused. The appeal of the petitioner would be entertained by the appropriate authority in accordance with the Rules, provided it is filed on or before 10/09/2021. All contentions of the litigating parties are left open and pendency of the criminal prosecution with regard to Charge Nos. 1 to 3, shall not be an impediment for the Appellate Authority in considering the appeal of the petitioner.

6. The pending civil application would not survive and stands disposed off.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)