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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2396 OF 2021

Mrs.Neelakshi S. Patil	...Petitioner
V/s.	
State of Maharashtra & Anr.	...Respondents

Mr.M.V. Thorat for the Petitioner.
Mr.R.S. Pawar, AGP for the State – Respondent Nos.1 and 2.
Mr.Deven Jogdeo for the Respondent Nos. 4 to 13.

**CORAM : R.D. DHANUKA &
V.G. BISHT, JJ.**

DATE : 3RD JULY, 2021.

P.C. :-

(THROUGH VIDEO CONFERENCE)

1. Rule. Learned AGP waives service for the respondent nos.1 to 3. Learned counsel for the respondent nos.4 to 13 waives service. By consent of parties, the petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of certiorari for quashing and setting aside the enquiry report dated 10th May, 2021 submitted by the respondent no.3 and further direct the respondent no.2 to appoint any independent enquiry officer and to conduct enquiry afresh.

3. The principal grievance of the petitioner in this writ petition is that though the enquiry officer though vide notice dated 18th February, 2020 had given an opportunity to the petitioner to remain

present personally or through his representative or advocate for the purpose of personal hearing on 1st March, 2021 at 2.00 p.m., the respondent no.3 proceeded with the enquiry and submitted the report without any hearing.

4. We have heard the learned counsel for the parties. Learned counsel for the petitioner states that the matter may be remanded back before the enquiry office for giving an opportunity to the petitioner of being heard. Learned counsel for the complainants i.e. respondent nos.4 to 13 has no objection if the matter is remanded back to the respondent no.3 for fresh hearing. Statement is accepted.

5. The impugned report dated 10th May, 2021 is accordingly quashed and set aside. The proceedings are restored to file before the respondent no.3. The respondent no.3 shall give personal hearing to the petitioner or his representative or advocate and the complainants in person or through their advocate. The petitioner is permitted to file documentary evidence also if she desires before the enquiry office with a copy of those documents to be served upon the learned advocate for the complainants in advance. Learned counsel for the respondent nos.4 to 13 states that his clients do not propose to file further documents for consideration before the respondent no.3. The respondent nos.4 to 13 have already filed the pleadings and documents before the respondent no.3. Statement is accepted.

6. The respondent no.3 shall decide the matter afresh without being influenced by the observations made and the conclusion drawn in the enquiry report dated 10th May, 2021 on its

own merits and in accordance with law after complying with the principles of natural justice. The order shall be passed within three months from the date of hearing. The petitioner as well as the respondent nos.4 to 13 to appear before the enquiry officer in person or through their authorized representative or advocate before the respondent no.3 on 12th July, 2021 at 11.00 a.m. If the assigned date is not convenient to the enquiry officer, the enquiry officer shall communicate an early convenient date to both the parties in advance.

7. If any adverse order is passed by the respondent no.3, aggrieved party shall be at liberty to file appropriate proceedings.

8. Learned counsel for the respondent nos.4 to 13 states that he has already filed the Vakalatnama on behalf of respondent no.4. He undertakes to file Vakalatnama on behalf of respondent nos.5 to 13 in this Court within one week from today. Undertaking is accepted.

9. The writ petition is disposed of in aforesaid terms. Rule is made absolute accordingly. No order as to costs.

(V.G. BISHT, J.)

(R.D. DHANUKA, J.)