

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3907 OF 2021**

Manjiri Madhav Tikekar

....Petitioner

Versus

Disciplinary Authority and Principal District Judge,
Ratnagiri and ors.

....Respondents

Mr. M. L. Patil, advocate for the petitioner.

Mr. Rahul Nerlekar, advocate for respondent Nos.2 and 3.

Ms. M. S. Bane, AGP for the State.

**CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.**

DATE : 24th SEPTEMBER, 2021.

P.C. :

1. Heard Mr. Patil, learned counsel for the petitioner.

2. The petitioner has made the following prayers:

- a) *To issue Rule and call for record and proceedings.*
- b) *To issue a Writ of Mandamus or any other Writ order or direction in the nature of Writ under Art 226 of the Constitution of India;*
 - i) *To quash and set aside the Disciplinary Enquiry No.1 of 2021 initiated under notice dated 07.05.2021 and Memorandum of Charges.*
 - In alternative to the prayer (i) above,*
 - ii) *To quash and set aside the letter/communication dated 27.05.2021 and 29.07.2021 from the Respondent No 2 and the petitioner be granted permission to engage an Advocate in the Disciplinary Enquiry No.1 of 2021 pending before Respondent No.1."*

3. On instructions from the petitioner who is present in this Court, Mr. Patil submitted that he is not pressing prayer b(i).

4. Insofar as prayer b(ii) is concerned, Mr. Patil invited our attention to various documents placed on record. It is not in dispute that the FIR was lodged at Chiplun Police Station for the offences punishable under Sections 465, 466, 468 and 471 of the Indian Penal Code, 1860 as it was found that forged orders of the court were prepared. The present petitioner is not an accused in the said crime.

5. The learned counsel for the petitioner submits that in view of registration of above said crime, the petitioner was subjected to departmental inquiry and punishment of '*censure*' was imposed. It is submitted that for the very same charges the petitioner is again subjected to departmental inquiry. It is submitted that considering these facts and circumstances, the petitioner had filed an application before the learned Principal District Judge, Ratnagiri on 2nd June, 2021, with a request to permit her to engage a lawyer to represent her in the departmental inquiry. It is submitted that in support of her application the petitioner submitted the judgments of the Hon'ble Apex Court. Mr. Patil submitted that neither the manual of department inquiry nor the Maharashtra Civil Services (Discipline and Appeal) Rules 1979 creates an absolute bar in that respect. It is submitted that inspite of it, the learned Principal District

Judge, rejected the application. It is submitted that order impugned be set aside and the petitioner be permitted to engage lawyer to represent her in the departmental inquiry.

6. Mr. Nerlekar, learned counsel appearing for respondent Nos. 2 and 3 while opposing the prayer clause b(ii) supported the orders dated 27th May, 2021 and 29th July, 2021.

7. We have gone through the judgments of the Hon'ble Apex Court reported in **1982 Law Suit (SC) 187** in the case of **Board of Trustees of Port of Bombay versus Dilipkumar Ragvendranath Nadkarni** and **2015 Law Suit (SC) 93** in the case of **Ramesh Chandra Vs/ University of Delhi & ors.**, on which, a heavy reliance is placed, by the learned counsel for the petitioner.

8. Considering the fact that there are two criminal cases and as according to the petitioner, she was already subjected to departmental inquiry on the same charges, the orders dated 27th May, 2021 and 29th July, 2021 passed by the Principal District Judge, Ratnagiri are set aside. The petitioner is permitted to engage the lawyer to defend her in the departmental inquiry No.1 of 2021. We have granted permission to the petitioner to engage the lawyer, in the backdrop of the peculiar facts and circumstances of the case and the permission, so granted, shall not be treated as precedent.

9. With the above observations, the petition is disposed of.

(N. R. BORKAR, J.)

(PRASANNA B. VARALE, J.)