

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

**WRIT PETITION NO. 1557 OF 2021**

Dhanraj Namdeorao Madavi,  
Aged 53 years, Occ. Service  
R/o. Kothari Watika No.3, House No.14,  
Malkapur, Akola – 444002



**.. Petitioner**

**Versus**

1. The Chief Executive Officer,  
Zilla Parishad, Akola, Dist. Akola
2. District Jalsandharan Officer,  
Laghu Patbandhare Vibhag,  
Zilla Parishad Akola, Tah. & Dist. Akola
3. Divisional Commissioner,  
Amravati Division, Amravati



**.. Respondents**

Mr. M. D. Lakhey, Advocate for petitioner.

Mr. N. R. Patil A.G.P for respondent No.3.

**CORAM : SUNIL B. SHUKRE AND  
ANIL L. PANSARE, JJ.**

**DATED : 04/12/2021**

**ORAL JUDGMENT** (Per Sunil B. Shukre, J.)

Heard Mr. M. D. Lakhey, learned counsel for the petitioner and Mr. N. R. Patil, learned AGP for respondent No.3. Nobody is present for respondent Nos.1 and 2, although both of them are duly served and have also filed reply to this petition. It is not known, as to why learned counsel for respondent Nos.1 and 2 is

absent, however, reply is already thereon record and therefore, we have gone through the same.

(2) At this stage, Mr. R. M. Sharma, learned counsel for respondent Nos.1 and 2 appears and tenders his apology saying that he had gone to Court Library for some research work and in the process got late in coming to the Court. His presence is marked.

(3) **Rule.** Rule is made returnable forthwith. Heard finally by consent, and also in terms of the order dated 04/05/2021.

(4) It is not in dispute that the departmental enquiry that was initiated against the petitioner in the present case started on 26/10/2009, when the charge-sheet was issued. It is not in dispute that as provided under Rule 3.19 of the Departmental Enquiry Rule Book Fourth Edition, 1991, the departmental enquiry was required to be completed within six months from the date of the initiation of the enquiry and it was to be concluded so. The time for extension of the conclusion of the departmental enquiry was to be allowed by the departmental head. In the present case, the departmental enquiry is still pending and period of pendency is of about 12 years. There is

also an admitted fact that no further extension beyond the period of six months or one year has been granted by any departmental head. In such circumstances, it was necessary for the respondent Nos.1 and 2 to give some justification for such long pendency of the departmental enquiry. The reply, however, filed by respondent Nos.1 and 2, disappoints us on this count. There is no explanation nor any material fact pleaded in this reply, on the basis of which it could be said that there were some reasons and some factors beyond the control of respondent Nos.1 and 2 which protracted the conclusion of the enquiry. It is not also the case of the respondent Nos.1 and 2 that petitioner himself, partly or fully, was responsible for protracting the departmental enquiry proceeding.

(5) The facts and circumstances of the present case discussed above would show that the law laid down by Apex Court in the case of **Prem Nath Bali vs. Reg. High Court of Delhi & Anr. 2015(16)SCC 415**, would be squarely applicable to this case. In the said case, it has been held that where it is not possible for the employer to conclude enquiry due to certain unavoidable causes arising in the proceedings within the time-frame then efforts should be made to conclude it within the reasonably extended period depending

upon the cause and the nature of inquiry, but, not more than an year. Relevant observations as they appear in paragraphs 25 to 28 are reproduced for the sake of convenience as below :-

**“25.** We are constrained to observe as to why the departmental proceedings, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the respondents’ side to explain the undue delay in completion of the departmental inquiry except to throw blame on the appellant's conduct which we feel, was not fully justified.

**26.** Time and again, this Court has emphasized that it is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.

**27.** As a matter of experience, we often notice that after completion of the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

28. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year."

(6) In view of the above, we find that the facts and circumstances of this petition having been squarely covered by the law laid down by the Apex Court in the aforestated case, it deserves to be allowed.

(7) Of course, learned Assistant Government Pleader would submit that there is also a scope for us to say that the facts and circumstances of the present case are also covered by the view taken by this Bench of which one of us (Justice Sunil B. Shukre) was part, and this case is of **Prakash Rambhau Ranbaware vs. Deputy Commissioner (Establishment), Amravati Division, Amravati and others 2021 (1) ABR 620**. With due respect, we differ. In that case, the delay was only 3 years and 9 months and that delay was not found

to be solely attributable to the employer and was considered to be also on account of the employee to some extent. Therefore, instead of quashing enquiry, this Court had then directed the employer to complete the enquiry proceeding in a time bound manner. Such are not the facts and circumstances of the present case. As such, we are of the view that said case is of no assistance to the employer.

(8) In the result, the petition is partly allowed in terms of prayer clauses (a) and (b). As regards prayer for grant of other benefits, the petitioner is at liberty to make suitable representation in that regard.

(9) Rule accordingly. No costs.

[ ANIL L. PANSARE J. ]

[ SUNIL B. SHUKRE J.]

*KOLHE*