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

923 WRIT PETITION NO.1604 OF 2021  
WITH WP/4571/2021 WITH CA/2731/2022 IN WP/1604/2021  
WITH CA/4616/2021 IN WP/4571/2021

**VIJAYENDRA GULABSINGH JADHAV  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Mr D. J. Choudhari, Advocate for petitioner in WP/1604/2021  
Mr B. L. Sagar Killarikar, Advocate for petitioner in  
WP/4571/2021  
Mr P. K. Lakhotiya, A.G.P. for respondent Nos.1 to 3  
Mr Joslyn Menezes, Advocate h/f Mr R. J. Godbole, Advocate for  
respondent Nos.4 & 5

**CORAM : RAVINDRA V. GHUGE  
AND  
S. G. DIGE, JJ.**

**DATE : 5th April, 2022**

**PER COURT:**

1. The petitioner has preferred these two petitions. In the first petition, he has prayed for a direction that his voluntary retirement application be accepted by the employer. In the second petition, it is prayed that the constitution of the Enquiry Committee be declared as *mala fide* and be set aside.
2. In the second petition, this Court had passed an order on 15/03/2021, which reads as under :-

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*“1. At the request of learned counsel for the petitioner, leave to correct.*

*2. Mr Killarikar, the learned counsel for the petitioner submits that the petitioner has also challenged the action of the respondents in not accepting the proposal of the petitioner for voluntary retirement. The said writ petition is bearing No. 1604/2021. The said matter is now kept on 9<sup>th</sup> April, 2021.*

*3. In the present matter, the petitioner is challenging the enquiry initiated against the petitioner and the letter dated 18.01.2021. The learned counsel submits that there are dispute amongst the members of the management. Parallel management exists. There are about 25 First Information Reports filed against each other by the members of the management. On one hand, the respondents are not accepting the notice of voluntary retirement issued by the petitioner and on the other hand, are proceeding with enquiry though there are dispute amongst members of the management.*

*4. Mr Godbole, the learned counsel submits that there are serious charges against the petitioner. The criminal case is filed against the petitioner. The charge sheet is served upon the petitioner. The petitioner has filed his say.*

*5. The learned Assistant Government Pleader appears for respondent Nos. 1 to 3. Mr Godbole, the learned counsel appears for respondent Nos. 4 and 5 and seeks time to file affidavit in the matter.*

*6. Place the present matter on 9<sup>th</sup> April, 2021 along with the writ petition No. 1604/2021.*

(3)

*7. Till the next date, the final decision shall not be taken in the enquiry challenged in the present writ petition.”*

3. Vide Civil Application No.2731/2022 in Writ Petition No.1604/2021, the petitioner prays for the disposal of the writ petition, since the Management has already taken a decision to set aside the charge-sheet dated 16/06/2021 served upon the petitioner and has kept the enquiry in abeyance. By a Corrigendum dated 12/08/2021, the date of the charge-sheet is corrected as being 24/02/2021. The Management has then taken a decision on 14/08/2021 to accept the application of the petitioner, seeking voluntary retirement and by accepting the same in the meeting held on 13/08/2021, the petitioner has been relieved from employment w.e.f. 14/08/2021. A further letter has been received by the petitioner from the Management, dated 14/10/2021, informing him that proposal for his retiral benefits is being forwarded to the Competent Authority for clearance. By a communication dated 08/02/2022, the Education Officer (Secondary) has called upon the Management, to supply certain documents, which would support the acceptance of his voluntary retirement application and pursuant to which, he was relieved on 14/08/2021.

(4)

4. It is well settled that, if a charge-sheet is cancelled by the employer, no departmental enquiry can be conducted thereafter.

5. Since the Management has accepted the application of the petitioner for voluntary retirement, vide its Resolution dated 13/08/2021, and as he is relieved on 14/08/2021, the civil application filed by the petitioner, seeking withdrawal of the writ petition, is allowed.

6. Consequentially, as both these petitions are rendered infructuous, the same are disposed off, as withdrawn.

7. Since the Management is now removing the deficiencies and resubmitting a proposal of the petitioner for clearance of his retiral dues and pensionary benefits, we expect the Education Officer to scrutinize the same and pass appropriate orders on the said proposal, on its own merits, within six weeks from the date of receiving the proposal, which is complete in all respects.

8. Pending civil applications do not survive and the same are disposed off.

**(S. G. DIGE, J.)**

sjk

**(RAVINDRA V. GHUGE, J.)**