

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

**WRIT PETITION NO.6719 OF 2020
WITH
CIVIL APPLICATION NO.2299 OF 2022**

**SYED TAJUDDIN SAYED YOUSUFUDDIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner/ Applicant : Shri Dhage Vivek J.
AGP for Respondent 1/State : Shri V.M. Kagne
Advocate for Respondents 2 and 3 : Shri S.S. Bora
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 18th January, 2023

Per Court :-

1. This matter was heard at length. With the assistance of the learned advocates, we have gone through the voluminous records. Considering the order that we are passing after expressing our view to the learned advocates, we are not required to advert to the entire submissions since our observations on their submissions would influence the disciplinary proceedings, as well as the criminal trial.

2. The petitioner is facing the disciplinary proceedings. The Enquiry Officer has initially submitted the report noting that the Municipal Corporation did not produce the documents. The Commissioner of the Municipal Corporation invoked Rule 9 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and requested the Enquiry Officer to permit the Municipal Corporation to file the documents. With the aid of Rule 9, the enquiry has progressed. However, after the Municipal Corporation filed 1122 pages of documents, the Enquiry Officer has not granted a date for the further sessions of the enquiry proceedings, since February, 2022. A spacious plea is put forth that the litigation is pending in the High Court. At the same time, the petitioner is facing a criminal trial in Regular Criminal Case No.443/2022 before the learned 3rd Judicial Magistrate First Class, Parbhani.

3. It is well settled that the High Court should not venture into disputed questions and more so, when the disciplinary proceeding is in progress. It would, therefore, be appropriate for us to direct the Enquiry Officer to proceed with the enquiry and ensure that the same is concluded in terms of Rule 8 r/w Rule 9.

4. We, therefore, direct the enquiry officer to commence the further proceedings by posting the next session of the enquiry on 30.01.2023 at 12:00 noon. The petitioner and the Municipal Corporation before us, agree to appear before the Enquiry Officer on 30.01.2023. We direct the Enquiry Officer to ensure that the enquiry is concluded expeditiously, but not in undue haste, on or before 30.06.2023. The petitioner as well as the Municipal Corporation assure that they would render wholehearted cooperation to the Enquiry Officer.

5. Insofar as the criminal proceedings, we deem it appropriate to direct the learned 3rd Judicial Magistrate, First Class, Parbhani to conclude the trial in Regular Criminal Case No.443/2022, which is at the stage of framing of charges, on or before 31.01.2024.

6. Needless to state, after culmination of the disciplinary proceedings and in the event of any adverse order being passed by the Management against the petitioner, he would be at liberty to avail of the remedies, as are statutorily provided. All contentions of the litigating parties are kept open.

7. With the above directions, the Writ Petition as well

as the Civil Application stand disposed off.

8. However, we deem it appropriate to continue the ad-interim relief granted earlier.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)