

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4696 OF 2021

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Dilip Prabhakar Gheware

..Petitioner

Versus

The Assistant Commissioner of Police
Crime Branch, Thane & Anr.

..Respondents

Mr. Tarun Sharma a/w Sunidhi Hooda, Zaibunissa Shaikh & Nausheen Shaikh for the Petitioner.

Smt. G. P. Mulekar, APP for the Respondent/State.

Mr. M. H. Nikam, PSI, Crime Branch, Thane City - present.

Mr. Rajesh S. Wadnerkar, Section Officer, Urban Development Department, Mantralaya, Mumbai – present.

Mr. Nitin Shelke, Section Officer, Urban Development Department, Mantralaya, Mumbai - present.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ.**

DATE : 28th FEBRUARY, 2023

PC.

1. The petitioner, a public servant was investigated into in crime being offence No.201 of 2016 punishable under Sections 420, 467, 468, 470, 471, 120B of IPC and Sections 13(1)(d) of the Prevention of Corruption Act.

2. It appears that the proposal for sanction remained pending for a quite long time. As a sequel of above, forming such ground that particularly having regard to the provisions of Section

17A of the Prevention of Corruption Act, quashing was sought as there was absence of sanction to prosecute or investigate.

3. Learned APP on instructions from the officials has placed on record the order dated 23rd February, 2023 issued by the competent authority extending sanction not only to prosecute the petitioner but also one more public servant. The sanction order dated 23rd February, 2023 is marked "X" for identification.

4. As a sequel of above, the respondent/Investigating Agency is free to move against such public servants, who are permitted to prosecute by the Investigating Agency.

5. In the aforesaid background, the petition is not pressed.

6. As such, the petition stands disposed of as not pressed.

7. However, in case if the petitioner is charge-sheeted, he is at liberty to question the order granting sanction/quashing of charge-sheet or apply for discharge before the Court below, which prayer be considered and dealt with without being influenced by the disposal of the present petition.

8. The order of this Court passed on 20th January, 2023 was though communicated by the office of Public Prosecutor and received by the Registry of the Urban Development Department, the

same was not placed before the officer viz. either the Secretary of the Department or Law Officer of Urban Development Department. As such, this Court was constrained to call for the explanation on failure of the Urban Development Department and response to compliance of the order.

9. As a sequel of above, Smt. Varsha Sakhare, Deputy Secretary, Legal has filed an affidavit on record sworn on 16th February, 2023 stating that the communications from the office of APP and the copy of the order of this Court were never received by her from the Registry i.e. Inward Section of the Urban Development Department.

10. In view of above, the learned APP was requested to look into the matter. As such, the Section Officer, Registry of Urban Development Department has sworn an affidavit stating that the communication was given to Law Officer on 25th January, 2023.

11. It is admitted by the Section Officer in his affidavit that he is not maintaining any record as to the movement of the communication received in the Registry to the various sections of the Urban Development Department.

12. Mr. Rajesh Wadnerkar, Section Officer (Registry), Urban Development Department, Mantralaya, Mumbai has expressed his remorse and regret for failure to effectively communicating order of

this Court to the concerned officer. Through learned APP, he has apprised this Court the corrective measures initiated by him viz. the delivery of the Tapal/Dak/communications to the concerned Section Officers. He further assures this Court that he shall take all necessary precautions to avoid repetition of the incidents as are noticed by this Court in the present petition.

13. We are of the view that the said officer having tendered unconditional apology and having expressed his remorse has sufficiently regretted his default and has taken corrective measures.

14. In view of above, we deem it appropriate to discharge the said officer.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]