

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

WRIT PETITION NO. 732 OF 2023

Surendra V. Azad s/o Dayashankar Singh,
aged about 39 years,
Occ. Regional Provident Fund Commissioner – II,
Employees Provident Fund Organisation,
R/o Village PO – Barachawar, PS Karmuddin Road,
District – Ghazipur – UP – 233229,
Earlier R/o Qtr. No. Type – IV – 4, EPFO Colony,
Shyam Bag, Nagpur – Now posted at Chennai.

PETITIONER

....VERSUS....

The Central Provident Fund Commissioner,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Palace, New Delhi.

RESPONDENT

Shri Prakash Naidu, Advocate for the petitioner.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 20/4/2023

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

Despite service, there is no appearance on behalf of the respondent. We had granted opportunity to the respondent to appear and contest the Writ Petition on 30/3/2023 and 12/4/2023. Despite that, none appears for the respondent.

2] **RULE.** Rule made returnable forthwith.

3] The petitioner is facing departmental enquiry based on the alleged incident that is stated to have occurred on 17/3/2019 which has resulted in lodging of the First Information Report dated 17/3/2019 under Section 7(a) of the Prevention of Corruption Act, 1988. It is submitted that charges have been framed in the criminal trial and the evidence is to commence shortly. On the basis of the same event and relying upon the statements of some persons who would be the witnesses

in the criminal trial, the respondent has sought to hold an enquiry against the petitioner. Permitting the departmental enquiry to continue would result in the petitioner being required to disclose his defence. It is therefore prayed that till completion of the criminal trial, the departmental proceedings be kept in abeyance. Reliance is placed on the decision in *Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. And Another [(1999) 3 SCC 679]* as well as the order passed in *Sudhanshu Shrivastava Vs. Coal India Limited [Writ Petition No. 7073/2022]* decided on 10/3/2023].

4] Having heard the learned Counsel for the parties, we find that on the basis of the same event dated 17/3/2019, the criminal trial has commenced which has resulted in lodging of the First Information Report dated 17/3/2019. Since the charge has now been framed and the evidence is to commence shortly, we find it to be in the interests of justice to pass the following order in the light of the law laid down in *Capt. M. Paul Anthony (supra)*.

i] The proceedings in Criminal Case No. RC0282019A0001 pending before the Special Court are expedited. The Special Court shall make an endeavor to complete the trial within a period of nine months of the next date of the proceedings. Till conclusion of the said trial, the respondent shall not proceed with the departmental enquiry against the petitioner. The petitioner shall co-operate with the expeditious disposal of the criminal trial and on the failure on the part of the petitioner in doing so, the Special Court is free to pass appropriate orders and proceed with the trial.

5] With these directions, the Writ Petition is partly allowed. Rule accordingly. No costs.