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

WRIT PETITION NO.13857 OF 2016

Chandralal s/o Waktuji Meshram,)
aged 62 Years, Occ. Retired,)
r/o S-6 2nd floor,)
Mahakalkar Complex, New Dighori Naka,)
Umrer Road, Nagpur.).. Petitioner

Versus

1. Hon'ble High Court of Bombay, through)
its Registrar General, Fort, Mumbai.)
2. State of Maharashtra, through Principal)
Secretary, Law and Judiciary, Mantralaya,)
Mumbai-32.)
3. Accountant General (A&E)-II, pension wing)
old building, Civil Lines, Nagpur 440 001.)
4. Principal District and Sessions Judge,)
Wardha) ..Respondents

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Mr. Abhijeet Desai a/w Mr. Vijay Singh i/by Desai Legal, Advocate for the
Petitioner.

Mr. Rahul Nerlekar, Advocate for Respondent Nos.1 & 4.

Mr. N. C. Walimbe, Addl. GP a/w Ms. Kavita N. Solunke, AGP for
Respondent Nos.2 and 3.

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**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 16th APRIL 2024.

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

1. Rule. Rule made returnable forthwith and heard learned counsel for
the parties. The challenge raised in this writ petition filed under Article
226 of the Constitution of India is to the Memorandum of Charge dated
19/08/2014 issued by the first respondent-Registrar General, Bombay
High Court to the petitioner stating therein that the petitioner as a Judicial
Officer had failed to maintain absolute integrity and devotion to duty and

had conducted himself in a manner unbecoming of a Judicial Officer.

2. The facts giving rise to the present proceedings are that the petitioner while serving as Civil Judge, Senior Division, Latur decided various Land Acquisition References arising out of acquisition proceedings of agricultural land at villages Harangul (Bk) and Khandapur near Latur for acquisition of additional industrial area by the Maharashtra Industrial Development Corporation. According to the first respondent, in Land Acquisition Reference Nos.179 of 1999 and 34 of 1999, compensation was enhanced to Rs.30/- per square feet which was exorbitant. It was further stated that in Land Acquisition Reference Nos.368 of 1999, 461 of 1999 and 910 of 2000 compensation at the rate of Rs.12,000/- per R and Rs.20/- per square feet came to be awarded. It was stated that the petitioner failed to analyse and scrutinise the oral as well as documentary evidence and that the correct ratio of the law laid down by the Hon'ble Supreme Court had not been applied. It was further alleged that the petitioner while awarding exorbitant compensation made a discrimination and this amounted to judicial impropriety exhibiting lack of integrity. It was thus alleged that the petitioner had committed grave misconduct within the meaning of Rule 3(1) (i), (ii) and (iii) of the Maharashtra Civil Services (Conduct) Rules, 1979.

3. Mr. Abhijeet Desai, learned counsel appearing for the petitioner submitted that shortly after issuance of the Memorandum of Charges on

19/08/2014 when the petitioner was also placed under suspension, an order dated 10/10/2014 came to be passed revoking the suspension and thereby permitting the petitioner to superannuate. It was submitted that on the basis of an opinion obtained by the first respondent from an Advocate dated 07/12/2011, the present proceedings were initiated. There was no justification whatsoever for the first respondent to obtain such opinion and on that basis proceed to enquire against the petitioner. It was further submitted that the orders passed in the Land Acquisition References were the subject matter of challenge in appeal filed before this Court. Placing reliance on the decision in *(Sadhna Chaudhary Vs. State of Uttar Pradesh & Another) (2020) 11 SCC 760* it was submitted that merely on the ground that higher amount of compensation was awarded, it could not be said that the petitioner was guilty of any misconduct as alleged. It was thus urged that there was no legal justification whatsoever to continue with the aforesaid proceedings. In view of pendency of these proceedings, the petitioner was merely receiving provisional pension. It was thus prayed that the memorandum of charge be quashed.

4. Mr. Rahul Nerlekar, learned counsel appearing for the first respondent opposed aforesaid submissions. According to him, the challenge raised by the petitioner to the issuance of the chargesheet was pre-mature and that it was open for the petitioner to raise all defences in the disciplinary enquiry. It was submitted that immediately on being

served with the Memorandum of Charges dated 19th August, 2014, the petitioner submitted his written statement of defence on 15th/24th September 2014. In the said proceedings, the petitioner took the stand that the judgments delivered by him in the Land Acquisition References were sub-judice before the Aurangabad Bench of this Court in First Appeal Nos.2039 of 2010 and 2040 of 2010. Hence, according to the petitioner, the action proposed against him was pre-mature. The aforesaid written statement of defence was considered by the Disciplinary Committee of the High Court in its meeting held on 22/09/2015 wherein it was decided to keep the petitioner's file pending till the first appeals were decided. In the subsequent meeting of the Disciplinary Committee held on 26/09/2017, the petitioner's representation dated 01/06/2016 seeking to drop the disciplinary enquiry was considered and it was decided to keep the said file pending till the disposal of the aforesaid first appeals. It was thus submitted that since the said first appeals had now been decided, the matter could be considered by the Disciplinary Committee in the light of its earlier decisions. It was thus submitted that the challenge as raised by the petitioner was pre-mature, especially, when the Disciplinary Committee was yet to consider the petitioner's representation dated 01/06/2016 seeking dropping of the aforesaid proceedings. Hence the petitioner was not entitled for grant of any relief whatsoever.

5. We have heard the learned counsel for the parties at length and

with their assistance we have perused the documents placed on record. It may be noted that the challenge raised in the present writ petition is to the issuance of Memorandum of Charge dated 19/08/2014 accompanied by the Statement of imputations. On being served with the statement of charges, the petitioner has submitted his written statement in defence on 15th/24th September 2014. A specific stand has been taken therein by the petitioner in paragraphs 19 and 20 that the decisions rendered by him in the Land Acquisition References were the subject matter of challenge before the Aurangabad Bench of this Court in First Appeal Nos.2039 and 2040 of 2010. On this basis, the petitioner contended that the action initiated against him was pre-mature. In the interregnum, the petitioner moved another representation on 01/06/2016 reiterating this stand. The petitioner has sought dropping of the aforesaid disciplinary proceedings on the ground that in various other First Appeals, the rate of compensation awarded by the petitioner while deciding the Land Acquisition References was found to be reasonable. This representation of the petitioner was placed before the Disciplinary Committee and on 26/09/2017, the Disciplinary Committee resolved to keep the file pending till disposal of the subject appeals. It may be noted that even prior thereto, the Disciplinary Committee in its earlier meetings held on 22/09/2015 and 27/07/2016 had resolved to keep the disciplinary proceedings pending in view of the fact that the first appeals were yet to be decided.

The first appeals have now been decided. The first appeals preferred by MIDC were partly allowed and the amount of compensation determined for the subject lands was slightly reduced. The first appeals and cross objections preferred by the claimants seeking enhancement in the amount of compensation came to be dismissed. It may be noted that Maharashtra Industrial Development Corporation has raised further challenge to the judgment of this Court in First Appeal No.2040 of 2010 by approaching the Supreme Court and the said proceedings are pending.

6. It is seen from the record that except for serving the Memorandum of Charge alongwith Statement of imputations followed by written statement of defence by the petitioner, the disciplinary proceedings have not been taken further in view of the fact that the first appeals raising challenge to the judgments delivered by the petitioner in LAR Nos.179 of 1999 and 340 of 1999 were pending. When the petitioner sought dropping of the disciplinary proceedings by moving representation dated 01/06/2016, the Disciplinary Committee resolved to keep the proceedings pending since the first appeals had not yet been decided. Since the aforesaid first appeals have now been decided, we find that the Disciplinary Committee can now consider the petitioner's representation dated 01/06/2016 seeking dropping of the proceedings. Since the petitioner seeks dropping of the disciplinary proceedings on various ground raised in the said representation which representation is yet to be

considered by the Disciplinary Committee, we do not find it expedient to examine the petitioner's challenge to the initiation of the disciplinary proceedings at this stage.

7. In our view, the interests of justice would be served if the petitioner's representation dated 01/06/2016 seeking dropping of the disciplinary proceedings is considered by the Disciplinary Committee in the backdrop of the fact that First Appeal Nos.2039 and 2040 of 2010 have now been decided. This is for the reason that the Disciplinary Committee itself had resolved to defer the proceedings in view of pendency of the said first appeals.

8. Hence for aforesaid reasons, the challenge raised to the initiation of disciplinary proceedings against the petitioner is not considered on its merits. Instead, the representation dated 01/06/2016 preferred by the petitioner before the Disciplinary Committee seeking dropping of the disciplinary proceedings can be considered by the Disciplinary Committee on the grounds raised therein. Needless to state that if the petitioner is not satisfied with the adjudication of his representation dated 01/06/2016, he is free to avail such remedies as are available to him in law. The contentions raised by the petitioner on merits in that regard are kept open.

9. Rule is disposed of in aforesaid terms with no order as to costs.

[JITENDRA JAIN, J]

[A.S. CHANDURKAR, J.]