

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15997 OF 2023

Shri Suhas Kamalakar Ghaisas

...Petitioner

Versus

The Director, Advanced Centre For Treatment
Research & Education in Cancer, Kharghar,
Navi Mumbai And Ors.

...Respondents

.....

Mr. Mandar Soman, Advocate for Petitioner.

Mr. Agnel Carneiro a/w. Mr. Shahvir Dastur i/b. Mulla & Mulla &
Craigie Blunt & Caroe, Advocates for Respondents.

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**CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 3 JANUARY 2024

P.C.:

. Heard learned counsel for the parties. The Petitioner has sought to press this Petition, first to quash and set aside a show cause notice dated 9 June 2023 and second, in the alternative, to direct the Respondents to take a decision upon the show cause notice within a reasonable time. Learned counsel for the Petitioner has pressed the second prayer.

2. Cause for seeking this prayer arises in the following manner. Petitioner had joined the services of Respondent - Advance Centre

for Treatment, Research & Education in Cancer as administrative staff in the year 1982. Thereafter on 04 July 2012 he had taken voluntary retirement and his retiral benefits were settled. In February 2017 the Petitioner received the order reducing one increment from his pension. The Petitioner filed Writ Petition No. 10250 of 2017 which was disposed of on 25 April 2023 observing that the action could not have been taken by the Respondents without issuing any show cause notice and the principles of natural justice have to be followed. Accordingly the impugned order therein was set aside and the Respondents were permitted to issue show cause notice to the Petitioner. The said show cause notice thereupon was issued on 09 June 2023. Since nothing was done thereafter, present Petition is filed.

3. The Petitioner is almost 70 years old and is awaiting decision on the show cause notice issued to him for more than 6 months. The Petitioner is right in contending that, such show cause notice cannot be kept pending and must be taken to its logical conclusion, so that if it would adversely affect the Petitioner, he can challenge the same. We have called upon learned counsel for Respondents to indicate a timeline within which order on show cause notice would be issued. The learned counsel states that he is unable to commit to a time line since Respondent Nos. 1 & 2 sought clarification from Respondent No. 3 on 24 August 2023 the same is awaiting.

4. Though there may be some procedural compliance to be

followed, the same cannot be pending for indefinite period. Since the Respondents are not committing to a time-line, we are constrained to set one for the Respondents.

5. Accordingly the writ petition is disposed of directing the Respondents to take final decision on the show cause notice issued to the Petitioner within a period of 3 months from today.

6. Respondent Nos. 1 & 2 to bring this order to notice of the Deputy Secretary, (R & D), Department of Atomic Energy to whom the communication is addressed on 24 August 2023 so that the Deputy Secretary would be able to comply with the order within time. We are informed that the Deputy Secretary named in this communication is one Smt. Bharati S. Pai, has now superannuated. We are informed the present incumbent officer is one Smt. Padma Konar, Under Secretary (R & R-II).

7. We expect that the Respondents would not bring about a situation that the order of this court is breached and we have to take coercive action for the breach of the order.

8. Writ petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)