



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

WRIT PETITION NO.2955 OF 2024

Loknath S/o Jairam Khandare,
Aged 48 years, Occ. Service,
R/o Atharv Homes, Jivanjyoti Colony,
Jagannath Baba Nagar,
Datala Road, Chandrapur

... Petitioner

-vs-

1. Chief Executive Officer,
Shri Vivek Jhonson, Zilla Parishad, Chandrapur

2. State of Maharashtra,
Through Anti corruption Bureau,
Police Station Savali,
District Chandrapur

... Respondents

Ms Surabhi Godbole, Advocate h/f Shri Prakash Naidu, Advocate for petitioner.
Shri S. V. Sohoni, Advocate for respondent No.1.
Shri D. P. Thakare, Additional Government Pleader for respondent No.2.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : December 03, 2024

Oral Judgment : (Per : Nitin W. Sambre, J.)

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally with consent of counsel for the parties.

3. The petitioner came to be chargesheeted in Crime No. No.210/2023 for an offence punishable under Section 7 of the Prevention of Corruption Act, 1988.

4. The basis of the offence alleged against the petitioner is demand and acceptance of bribe in the capacity of a public servant. The petitioner accordingly came to be chargesheeted by the employer and proceeded with the departmental enquiry.

5. It is the case of the petitioner that the charge-sheet is based on pre-trap and post-trap panchanama. According to the learned counsel for the petitioner, perusal of charges in the departmental proceedings would reveal that the charges are based on the aforesaid issue of criminal prosecution only.

6. In such an eventuality, it is claimed that the petitioner would be forced to disclose his defence which he intends to take in the criminal trial which involves a complicated question of law and fact. So as to substantiate her contention, the learned counsel has drawn support from the charge-sheet submitted by the employer so also the nature of evidence which is sought to be placed before the criminal Court in the matter of securing conviction of the petitioner.

7. It is claimed that in the aforesaid background, if the law laid down in paragraph 22(ii) in the matter of *Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. And anr. (1999) 3 SCC 679* is appreciated, departmental proceedings against the petitioner has to be kept in abeyance. Paragraph 22(ii) reads thus :

“ 22 (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

8. As against above, the learned Additional Government Pleader and the counsel appearing for the employer submit that the petitioner shall cooperate for expeditious disposal of the trial and he shall not delay the trial in any manner.

9. We have appreciated the aforesaid submissions.

10. It can be gathered from the charge-sheet in criminal case so also the charges framed in the departmental proceedings that the allegations in criminal proceedings and the departmental proceedings proceed on similar

set of events based on the allegation that the petitioner was trapped in demand of illegal gratification.

11. In such situation, we are of the view that the petitioner would be forced to disclose his defence in the departmental proceedings as the charges against the petitioner in both the criminal and the departmental proceedings are based on same events. Such act of forcing the petitioner to disclose his defence would go contrary to the law laid down by the Apex Court in the matter of *Capt. M. Paul Anthony* (supra).

12. That being so, we deem it appropriate to direct the respondent employer to defer hearing of the departmental proceedings for a period of one year.

13. In the meantime, we direct that the trial against the petitioner in Special (ACB) Case No.66/2024 arising out of Crime No.210/2023 for an offence punishable under Section 7 of Prevention of Corruption Act, be concluded expeditiously.

14. We deem it appropriate to further observe that in case the petitioner fails to extend cooperation in expeditious disposal of the criminal trial and if the trial Court is of the view that the petitioner is intentionally prolonging the trial, it shall be open for the trial Court to submit default report against the petitioner to the employer so as to proceed against the petitioner departmentally.

15. Writ Petition accordingly stands partly allowed. Rule accordingly. No costs.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)