IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2757 OF 2024

Purushottam H. Pachurkar Age : 75 years, Indian Inhabitant, Residing at A/5, Patil Garden Apartments, Tejas Nagar, Kothrud, Pune – 411 038	))))	….Petitioner
V/s.		
1. The Chief Executive Officer, M.I.D.C. Udyog Sarathi, Andheri East, Mumbai – 400 093	)))	
2. The Chief Accounts Officer & Inquiry Officer, M.I.D.C., Udyog Sarathi, Andheri East, Mumbai – 400 093	)))	
3. Administrative Officer, Maharashtra Industrial Development Corporation, Udyog Sarathi, Andheri East, Mumbai – 400 093	))))	
4. State of Maharashtra	)	….Respondents

Mr. Sanjiv Sawant a/w. Mr. Abhishek Matkar and Mr. Malhar Bageshwar for the Petitioner.
Mr. Kunal Damle a/w. Ms. Shraddha Dubepatil and Ms. Iraa Dubepatil i/b. Jay and Co. for Respondent Nos.1 to 3 (MIDC).

CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.
DATE : 20th FEBRUARY, 2025

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The learned Advocate for the MIDC has tendered the affidavit in reply dated 20th February, 2025 filed through Smt. Aditi N. Manjarekar, presently working as Establishment Officer with the MIDC.

3. The learned Advocate for the Petitioner has pointed out an order dated 18th December, 2024 passed by this Court wherein we had recorded our displeasure with regard to the conduct of the MIDC.

4. In the case of ***Pratapsinh Kedar Patil v/s. The Chief Executive Officer, MIDC and Others***[1], this Court has concluded that, under the MIDC service rules, though a chargesheet may have been issued prior to the retirement of the employee, the Departmental Enquiry cannot be continued after the retirement. It was primarily on account of the absence of a rule in the service conditions and the rules applicable to employees of MIDC, that this Court concluded that the enquiry could not have been continued after retirement.

5. This view of the Court was followed in another judgment delivered by this Court in ***Anand s/o Govindrao Nagargoje***

1 2023 SCC OnLine Bom 2694

v/s. The State of Maharashtra and Ors.[2] Much earlier, on similar service conditions, this Court had delivered a judgment in ***Dhairyasheel A. Jadhav v/s. Maharashtra Agro Industrial Development Corporation Limited.***[3] Yet, the MIDC prays that this Petition be dismissed with heavy costs.

6. The learned Advocate for the Petitioner submits that the Petitioner superannuated on 31st July, 2006. The chargesheet issued prior to his retirement, was subsequently withdrawn and a fresh chargesheet was issued on 19th April, 2010, which is practically four years after his retirement. The Enquiry Officer was appointed on 8th November, 2016. These facts are undisputed. However, the justification of the MIDC is that, it was withdrawn in the light of the judgment of this Court in ***Manohar B. Gori v/s. The Maharashtra Industrial Development Corporation and Anr.***[4]

7. Even if the above aspect is accepted for the sake of assumption, it is unconscionable that an Enquiry Officer could have been appointed after six years of the date of the second chargesheet and which is after ten years of the superannuation of the Petitioner.

2 2024 (6) Mh.L.J. 168
3 2010 (5) Bom C.R. 307
4 Judgment dated 04.08.2009 in WP/7603/2008

We not only join the learned Advocate for the Petitioner in his astonishment, we agree with his contention that the Petitioner has suffered an irreparable harm, serious prejudice and manifest inconvenience, with the sword of the Departmental Enquiry hanging over his head at the age of 76 years. He, therefore, prays for not only exemplary costs, but heavy interest on the unpaid amounts.

8. The learned Advocate for the MIDC submits that one factor may be taken into account that a part of the retiral benefits have been deposited with this Court, which the Petitioner has withdrawn under the orders of this Court. We are not fully convinced.

9. In view of the above and considering the glaring factors, as discussed in the foregoing paragraphs, **we allow this Writ Petition** in terms of prayer clauses (a), (b) and (c), which read as under :

> *(a) This Hon'ble Court be pleased to call for the records and proceedings pertaining to the impugned orders bearing no.224/2022 and No.225/2022 both dated 26th August, 2022 passed by the Respondent No.1 and after going through the legality, validity and propriety thereof, the impugned orders be quashed and set aside, and all*

> *consequential action/proceedings including the impugned letter dated 2nd May, 2023 bearing no. 143 of 2023 initiated pursuant to the said impugned orders be quashed and set aside.*
>
> *(b) That this Hon'ble Court be pleased to pass an order thereby quashing and setting aside the impugned letter dated 2nd May, 2023 bearing no.143 of 2023 and all consequential action/ proceedings initiated pursuant to the said impugned letter be quashed and set aside.*
>
> *(c) That this Hon'ble Court be pleased to pass an order directing the Respondent to forthwith withdraw/discontinue the inquiry proceedings initiated against the Petitioner pursuant to the Memorandum bearing no.SPV/Astha/Inquiry/ 95/10 dated 19th April, 2010 (being Exhibit 'G' hereto) since the entire inquiry is in teeth of the provisions of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 as well as the law laid down by the Hon'ble Bombay High Court in Dhairyasheel A. Jadhav us. Maharashtra Agro Industrial Development Corporation Ltd., 2010 (5) Bom. C.R. 307.*

10. In the light of the discussion on the various undisputed facts hereinabove, we direct the MIDC to pay costs of Rs.1 lakh to the Petitioner for his sufferings, anxiety and for compelling him to litigate upto the age of 76 years. The said amount shall be paid to the Petitioner within 45 days from today. Insofar as the remainder unpaid dues are concerned, akin to the other orders passed in similar matters, we are granting interest at the rate of 6% p.a. provided the

said amount is paid within a period of 45 days from today.

11. A ready reference chart of the unpaid amounts is tendered by the Petitioner, which is taken on record and marked as **'X'** for identification. The MIDC would verify the same and make such payment with interest. If the amount is not paid within a period of 45 days from today, it would carry interest at the rate of 8% p.a. from the date it became payable.

12. Since the Petitioner had tendered a security to the satisfaction of this Court, he stands released from the same and the Registry shall take steps to permit the Petitioner to withdraw the said security.

13. **Rule is made absolute** in the above terms.

(ASHWIN D. BHOBE, J.) **(RAVINDRA V. GHUGE, J.)**