

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2797 OF 2024**

Manohar B. Gori)
Age : 77 Years, Indian Habitant,)
Occupation : Retired,)
Residing at : Flat No.103, 'A' Wing,)
Kumar Co-operative Housing Society,)
MHADA Colony, Above Bank of Patiala,)
Mulund (East), Mumbai – 400 081)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).
Ms. Varsha Sawant, AGP for Respondent No.4.

**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 submitted as under :

(a) The Petitioner superannuated on 31st December, 2004.

(b) Since an enquiry was initiated after retirement, the Petitioner filed Writ Petition No.7603 of 2008. On 4th August, 2009, the Writ Petition was allowed.

(c) A new chargesheet was issued. Hence, the Petitioner filed Writ Petition No.1495 of 2010, on 17th March, 2010.

(d) MIDC cancelled the earlier memorandum of charges dated 27th December, 2004 and issued a fresh memorandum of charges on 19th April, 2010. On 14th March, 2014, the MIDC appointed its Chief Accounts Officer as the Enquiry Officer.

(e) The Petitioner filed Writ Petition No.2565 of 2014 challenging the appointment of the Enquiry Officer.

² 2024 (6) Mh.L.J. 168

³ 2010 (5) Bom C.R. 307

(f) This Court passed an order on 24th November, 2016, in the same Petition, restraining the MIDC from proceeding with the enquiry.

(g) The MIDC defied the order of the High Court and continued with the Departmental Enquiry and passed the impugned order on 26th August, 2022 against the Petitioner.

(h) The Petitioner gathered information in January, 2023, made a representation on 8th February, 2023 and preferred this Petition since the MIDC passed an order on 16th June, 2023 refusing to withdraw the impugned order.

(i) The MIDC has clearly acted in defiance of the order of this Court dated 24th November, 2016.

(j) The MIDC defends its order through the affidavit dated 20th February, 2025 filed by Smt. Aditi N. Manjarekar, presently working as Establishment Officer with the MIDC.

7. We are informed that after this Court had passed an order on 24th November, 2016 in Writ Petition No.2565 of 2014, staying the enquiry, the MIDC proceeded to continue the enquiry.

8. A serious issue has been pointed out to us by the learned Advocate for the Petitioner pertaining to, not only the

disobedience of the order of this Court, dated 24th November, 2016, but the act of defiance of some Officer of the MIDC, who refused to recall the order passed subsequently despite the representation of the Petitioner, by rejecting it on 16th June, 2023.

9. We called upon the learned Advocate for the MIDC to furnish the name and designation of the said Officer. The learned Advocate for the MIDC submits that he cannot name the Officer right now, though he had time in the lunch recess to collect the details. He submits that if this Court orders, an affidavit would be filed.

10. 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. 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 77 years. He, therefore, prays for not only exemplary costs, but heavy interest on the unpaid amounts.

11. 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 Chief Executive Officer, MIDC i.e. 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 taken or initiated pursuant to the said impugned orders including the impugned letter dated 16th June, 2023 bearing no.205 of 2023 be declared as null and void.

(b) That this Hon'ble Court be pleased to pass an order declaring that the impugned letter dated 16th June, 2023 issued by the Administrative Officer, MIDC i.e. Respondent No.3 is illegal, null and void and further be pleased to pass an order declaring all consequential action/proceedings taken initiated against the Petitioner pursuant to the said impugned letter dated 16th June, 2023 as null and void; or

(c) That this Hon'ble Court be pleased to pass an order directing the Respondents to forthwith withdraw /drop the inquiry proceedings initiated against the Petitioner pursuant to the Memorandum bearing no.SPV/Astha/Inquiry/95/10 dated 19th April, 2010 (being Exhibit 'J' 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 vs. Maharashtra Agro

Industrial Development Corporation Ltd., 2010(5)
Bom. C.R. 307.

12. 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 77 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.

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

14. Since this Petition has been allowed, the Bank Guarantee tendered to the Court by the Petitioner, would not continue and the Registry is directed to initiate steps accordingly to release the Bank Guarantee.

15. Since we contemplate issuing *suo motu* Contempt of Court proceedings against the Officer who disobeyed our order, list this disposed off Petition on 28th February, 2025 to enable the

learned Advocate for the MIDC to communicate the name of the Officer, who is responsible for such disobedience.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)