

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

**WRIT PETITION NO.3545 OF 2024**

**BASAVRAJ  
GURAPPA  
PATIL**

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Makarand Manohar Joshi

.. Petitioner

Vs.

The Chief Metropolitan Magistrate  
& Disciplinary Authority & Ors.

.. Respondents

...

Mr. S. K. Choudhari, Legal Aid Counsel for the Petitioner

Mr. Kiran Bapat, Senior Advocate i/b. Mr. Aumkar Joshi,  
Advocates for Respondent Nos.1 and 2

Mr. Amar Mishra, AGP for Respondent No.3-State

**CORAM : SHREE CHANDRASHEKHAR, CJ &  
GAUTAM A. ANKHAD, J.**

**DATE : 29<sup>th</sup> APRIL 2026**

**P.C. :**

This writ petition seeks to challenge the judgment dated 2<sup>nd</sup> November 2020 in Administration Appeal No. A&R Sec./1007/2015. The aforementioned administrative appeal was filed by the petitioner who was working as a Stenographer (Higher Grade) in the 51<sup>st</sup> Court of Metropolitan Magistrate, Kurla at Mumbai. The petitioner was dismissed from service under Rule 5(1) (ix) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 by an order dated 9<sup>th</sup> December 2014 passed by the Chief Metropolitan Magistrate in his capacity as a disciplinary authority.

2. In the domestic inquiry, a charge memo was served upon the petitioner on the allegations that on 6<sup>th</sup> September 2012 he demanded illegal gratification of Rs.50,000/- from Shrinivas S. Vadepalli who was an accused in CC/1402/PW/2005 on an assurance that he would secure his acquittal in the criminal case

filed against him under section 420 of the Indian Penal Code, 1860. It was the case of the department that the petitioner demanded illegal gratification at Hotel Food King in the name of the Presiding Officer, namely, A.S. Salgar and he received the amount at Hotel Ramdev at Sion. The petitioner had also demanded a digital camera and Samsung Tablet for himself. Shrinivas S. Vadepalli who was convicted on 2<sup>nd</sup> November 2012 made an allegation that the petitioner demanded and accepted illegal gratification from him. On the making of such a statement by Shrinivas S. Vadepalli, the Magistrate made inquiries and the petitioner tendered a written apology and then a Memorandum of Inquiry was served upon him on 25<sup>th</sup> February 2013. In the domestic inquiry, nine witnesses were examined on behalf of the department and Shrinivas S. Vadepalli was one of the material witnesses who tendered evidence in support of the allegations made against the petitioner in the Memorandum of Inquiry.

3. The Administrative Tribunal held that the charge against the petitioner is proved in view of the evidence tendered by Shrinivas S. Vadepalli, Umaji Karbhari Hadawale, Atul Shankarrao Salgar and Sikandar Saheblal Shaikh. The order dated 2<sup>nd</sup> November 2020 proceeds to examine the rival stand in the following manner:-

*“12. Heard the appellant. It is the contention of the appellant that while conducting the inspection in regular course, the High Court had found irregularities in the service book of the appellant. It was stated in the report that no departmental enquiry was pending against the appellant and therefore, his increments were released. According to the appellant ever since he had received his increments his colleagues were trying to find fault with him. That they had prejudiced the learned Magistrate against him and with the aid of Mr. Vadepalli he was falsely implicated in the said case. Hence, the departmental inquiry was initiated on the basis of unfounded allegations.*

*13. According to the appellant, Mr. Vadepalli visited his house on one occasion and had seen the ailing father of the appellant. Mr. Vadepalli had extended a hand loan to the appellant for the medical expenses of the father*

*of the appellant. The appellant had expressed inability to bear medical expenses and therefore, he extended a hand loan of Rs.50,000/- and that it was not an illegal gratification. The appellant has also submitted that Mr.Vadepalli was sentenced with a fine of Rs.40,000/- and since he had no money at that point of time, the appellant had returned Rs.40,000/- to him as he was to return the hand loan, which he had taken, for the medical expenses of his father.*

*14. In fact, the records would indicate that, at first juncture, the appellant had tendered a written apology to the presiding officer-Mr. A.S. Salgar. In the course of enquiry, he had initially denied the charges. However, admitted the same only after he was made to hear the recorded conversation in the presence of constable Shaikh, Judicial Clerk Mr. Hadawale and others. He had even given an undertaking that he would return the amount. The defence of a hand loan extended by Mr. Vadepalli is naturally an after thought. The Memorandum of Enquiry was issued to the appellant on 25<sup>th</sup> February 2013, the defence statement was given by the appellant on 16<sup>th</sup> March 2013 and part payment was made by cheque in December 2012 and thereafter. In any case, it has no relevance since the appellant had admitted his guilt and tendered oral apology before the Presiding Officer on 3<sup>rd</sup> November 2012. Similarly, he had given written apology on 6<sup>th</sup> November 2012.*

*15. In the course of inquiry, it is transpired that after he had admitted his guilt at the first instance before the Metropolitan Magistrate and had also given an undertaking that he would return the amount, he had then handed over his ATM Card to Constable Shaikh who had withdrawn the amount and returned it to Mr. Vadepalli. The appellant has changed his stance at every stage. At this stage also he had come with a request to show leniency. The appellant has failed to discharge the onus upon him to establish the preponderance of probabilities in order to show that he is innocent.*

*16. In view of the glaring testimony of Mr. Vadepalli, Mr.Hadawale, the presiding officer Mr. Salgar, PW.4-Mr. Shaikh, the findings recorded by the disciplinary authority call for no interference and hence, the appeal deserves to be dismissed in limine.*

4. S. K. Choudhari, the learned counsel for the petitioner submits that there was no forensic report to establish the genuineness of the conversation between the petitioner and Shrinivas S. Vadepalli which was recorded by the accused Shrinivas S. Vadepalli on his mobile phone and, therefore, the case against the petitioner cannot be said to have been proved.

5. In a domestic inquiry, the materials brought on record are examined not with the same yardstick which is employed to scrutinize the testimony of a witness tendered in a criminal Court. In

a domestic inquiry even hearsay evidence is admissible. There are materials on record which are supported by the evidence tendered by Shrinivas S. Vadepalli, Umaji Karbhari Hadawale, Atul Shankarrao Salgar and Sikandar Saheblal Shaikh. The findings recorded in a disciplinary proceeding are not open to challenge on the ground of some mistake committed by the departmental authority or the Tribunal. A writ of *certiorari* shall lie against the decision of the inferior Tribunal in a very limited circumstance such as where a decision has been taken contrary to the applicable service rules or in violation of natural justice. In “*Syed Yakoob*”<sup>1</sup>, the Hon’ble Supreme Court held as under:-

*“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Art. 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals : these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn*

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1. *Syed Yakoob v. K.S. Radhakrishnan & Ors.* : AIR 1964 SC 477

*from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ court. It is within these limits that the jurisdiction conferred on the High Courts under Art.226 to issue a writ of certiorari can be legitimately exercised”.*

6. In view of the above discussion, Writ Petition No.3545 of 2024 is dismissed.

**[GAUTAM A. ANKHAD, J.]**

**[CHIEF JUSTICE]**