



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

WRIT PETITION NO.4317 OF 2025

[Mr. Dilip S/o. Madhusudan Funde **..vs..** Maharashtra State Electricity
Distribution Company Ltd., and Others]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri. C. S. Kaptan, Senior Advocate a/b Shri. A. A. Mardikar, Advocate for Petitioner.
Shri. A. D. Mohgaonkar, Advocate for Respondents.

**CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.**

DATE : 25th MARCH, 2026.

. In the present matter, the order of termination dated 10.07.2025, issued by respondent No.3, terminating the petitioner from the post of Deputy Executive Engineer, is under challenge.

2. At the outset, Shri. C. S. Kaptan, learned Senior counsel assisted by Shri. A. A. Mardikar, learned counsel for petitioner, fairly states that against the termination order, though the appeal is provided, such alternate remedy has not been availed by the petitioner for the reason that there is complete violation of the principles of natural justice.

3. To substantiate this, he has drawn attention of this Court to the inquiry proceeding, which was initiated after issuing of charge-sheet, levelling in all 13 charges against the petitioner.

4. The inquiry proceeding shows that during inquiry, not a single witness was examined, whereas a written submission of 11 pages was submitted alongwith 43 documents having 540 pages. He, therefore, submits that the whole inquiry vitiates and consequently, the inquiry report dated 25.02.2025 and the

impugned order of termination dated 10.07.2025 issued by respondent No.3, are liable to be quashed and set aside. In support of his submission, he placed reliance on the decision of the Hon'ble Supreme Court of India in the case of **Roop Singh Negi vs. Punjab National Bank and Others**, reported in **(2009) 2 SCC 570**.

5. Shri. A. D. Mohgaonkar, learned counsel for respondents, is not disputing the above referred position that no witness was examined and except the written submission and filing of the documents, nothing was placed on record. He, further, admits that the whole findings based on such documents, in support of which not a single witness was examined. He is also not disputing the law laid down in the above referred judgment cited by the learned Senior counsel for petitioner.

6. We have heard the respective counsel for the parties. It is evident from the record that, except filing of written submission of 11 pages alongwith 43 documents in support of charges which are 13 in number, against the petitioner, the Management has not examined a single witness. Therefore, a question would be whether written submission and filing of documents itself is sufficient without examining any witness, to establish the charges in the inquiry proceeding. To answer this question, it would be beneficial to refer to the case of **Roop Singh Negi vs. Punjab National Bank and Others**, reported in **(2009) 2 SCC 570**, wherein the Hon'ble Supreme Court of India has observed thus :

"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon

taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

23.The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

It is further appropriate and beneficial to refer to the another judgment of the Hon’ble Supreme Court of India in the case of *State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow v. Ram Prakash Singh*, reported in *2025 SCC OnLine SC 891*, wherein the Hon’ble Supreme Court has held that :

“14. What follows from a conjoint reading of the above two decisions is and what applies here is that, ‘materials brought on record by the parties’ (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the principles flowing therefrom can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross-examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair

play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such documents are not spoken to by persons competent to speak about them. A document does not prove itself In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness.”

7. From the above referred observations, it is evident that the Enquiry Officer has duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against the accused by itself could not be treated to be the evidence in the disciplinary proceeding. A decision must be arrived at on some evidence, which is legally admissible. No document should be relied on by the prosecution without giving copy thereof to the delinquent and the contents of such document have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity.

8. By applying the above referred principles, if the facts of this case are considered, it is evident that no document has been proved by the respondents by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the circumstances, we have no hesitation to hold that the inquiry in question has got vitiated for the above referred reason.

9. In the circumstances, we pass the following order :

ORDER

- i) The writ petition is partly allowed.
- ii) The impugned order dated 10.07.2025 terminating the services of the petitioner and the inquiry report dated 25.02.2025 are hereby quashed and set aside.
- iii) The respondents are granted liberty to conduct a fresh inquiry from the stage at which it stood vitiated, if they so desire. If the respondents want to conduct the inquiry afresh, they shall issue such notice to the petitioner within three weeks from today, disclosing their intention to conduct the inquiry afresh, otherwise reinstate the petitioner within six weeks from today.
- iv) In the event inquiry is conducted afresh from the stage referred above, the respondents shall treat the petitioner under suspension and complete the inquiry within three months from the date of receipt of communication by the petitioner as regards conducting the inquiry afresh.
- v) After the final conclusion of the inquiry, the respondents shall take a decision as regards treating the suspension period as duty period or not.

10. Accordingly, the present writ petition is disposed of in above referred terms.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)