

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 290 OF 2020**

DISTRICT : PALGHAR

Shri Kiran S. Meher)
Occ : Assistant Police Inspector,)
R/at Post Tal-Vikramgad,)
Dist-Palghar.)...**Applicant**

Versus

1. The Commissioner of Police,)
Navi Mumai, having office at)
Belapur, CBD, Navi Mumbai.)

2. The Joint Commissioner of Police)
Navi Mumbai, having office at)
Belapur, CBD, Navi Mumbai.)

3. The Director General of Police,)
S.B Marg, Near Regal Cinema,)
Colaba, Mumbai.)...**Respondents**

Shri Tanveer Nizam i/b Shri Ameya Lambhate, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Shri P.N Dixit (Vice-Chairman) (A)

DATE : **22.10.2020**

PER : **Justice Mridula Bhatkar (Chairperson)**

ORDER

1. Heard Shri Ameya Lambhate and Mariam Nizam, learned advocates for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.

2. The applicant is working as Assistant Police Inspector and posted at Rabale Police Station under establishment of Navi Mumbai Police. Applicant prays to quash and set aside the order of his Preliminary Enquiry (P.E) dated 17.4.2020 issued by Respondent no. 1, Commissioner of Police, Navi Mumbai. The applicant when working at control room at Navi Mumbai was punished for not following the protocol of giving some serious information to his immediate superior, i.e. Joint Commissioner of Police. His one year increment is stopped. Against the said minor penalty he has filed appeal to the Government which is pending before Government. The said order is not the subject matter of the O.A.

3. It is the case of the applicant that his immediate superior for his fault of not reporting to him about the serious information, abused him in front of many Police Personnel and humiliated him. Being aggrieved with the said insult, he himself made station dairy entry at control room stating that his superior has committed offence and therefore action be taken against his immediate superior. Thereafter, he submitted an application at C.B.D Police Station on 8.2.2020 with similar details, so that offence can be registered against the superior officer. This act of the applicant has invited displeasure of his superior that action of making such statin dairy entry and giving the application is against the discipline and the protocol of Police Department.

4. We have heard this matter earlier. Though at the outset we found that the preliminary enquiry can be conducted against the applicant, he can put up his defence during the preliminary enquiry. The Respondents earlier to this order of conducting preliminary enquiry has issued show cause notice dated 29.1.2020 and 20.3.2020.

5. Learned counsel for the applicant submitted that the applicant had taken the correct steps after receiving the threat call on phone against the VIP and also necessary precaution of security. However, he could not inform this information to his immediate superior who was not available at the relevant time. So also in the preliminary enquiry the allegations are made of writing two Station Diary entry against his immediate superior and absence from the work place post the incidence. Learned counsel submitted that the applicant is having a very satisfactory explanation to these allegations and he has not committed any wrong.

6. Learned C.P.O while opposing this application has contended that it is a preliminary enquiry in which the authority will consider the stand taken by the applicant.

7. The submissions made by learned C.P.O are correct. The grievances of the applicant is nothing but the defence which is to be put in the preliminary enquiry, which the applicant can do so by submitting his written statement or reply to the higher authorities and by remaining present for the preliminary enquiry. No indulgence is required by the Tribunal at this stage.

8. Learned counsel for the applicant submits that applicant is suffering from Jaundice and Typhoid since May, 2020 and he is not fit to attend preliminary enquiry and he is directed to take one month bed rest from 3.10.2020 to 3.11.2020, because applicant was admitted in the Malsons Hospital, Koparkhaine in August, 2020.

9. It appears from the submissions of the learned counsel that the applicant is not keeping well. Applicant is therefore, directed to appear before the Civil Surgeon, Thane on 27.10.2020 at 11.00 am. The Civil Surgeon is directed to give a medical certificate and also give proper medical treatment to the applicant to enable him to attend the preliminary enquiry. Thereafter, the applicant is directed to appear for the preliminary enquiry as certified by the Civil Surgeon, Thane.

10. With the above directions, the O.A stands disposed of. No order as to costs.

Sd/-
(P.N Dixit)
Vice-Chairman (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 22.10.2020
Dictation taken by : A.K. Nair.

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