

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.118 OF 2021

DISTRICT : KOLHAPUR

Mr. Shrikant Sadashiv Khaple,)
Occ : Police Naik at Headquarter Kolhapur)
R/at. 733/8, Flat No.305, Subbal Shrushti Apt.,)
Near Vimal English School, Nale Colony,)
Sambhaji Nagar, Kolhapur 416 012.) **...Applicant**

Versus

1. The Director General of Police, Colaba,)
Mumbai.)
2. The Sp. IGP Kolhapur Range,)
Kasba Bawada, Kolhapur)
3. The Superintendent of Police,)
Kasba Bawada, Kolhapur)
4. Mr. Abhinav D. Deshmukh)
Superintendent of Police,)
Pune Rural, Chavan Nagar, Pune.)
5. Smt. Padma Kadam,)
Deputy Superintendent of Police,)
Head Quarter, Kasba Bawada, Kolhapur)
6. The Sub Divisional Police Officer,)
Jaisinghpur, Dist. Kolapur.) **...Respondents**

Mr. K.R. Jagdale, learned Advocate for the Applicant.

Mr. K.S. Gaikwad, learned Presenting Officer for Respondents.

CORAM : **Justice Ms. Mridula Bhatkar, Chairperson**
Ms. Medha Gadgil, Member (A)

DATE : **10.02.2022**

PER : **Justice Ms. Mridula Bhatkar, Chairperson**

J U D G M E N T

1. The learned Advocate for the Applicant submits that he wants to press for interim relief that the Departmental Enquiry (D.E.) which is initiated on 21.09.2020 is to be stayed on the following grounds :-

- (a) Cause for D.E. is not in existence because the applicant has withdrawn his application dated 08.08.2019 on 14.08.2019.
- (b) The Applicant has moved the application against the Superintendent of Police, Mr. Abhinav Deshmukh for harassing the applicant. The Applicant submits that when he made allegation against the S.P., then the officer above S.P. could only make an enquiry. However, the Deputy Superintendent of Police (Dy S.P.), Ms. Padma Kadam was directed to inquire into the matter. She has expressed her inability to conduct the enquiry against the S.P.
- (c) Today enquiry is going to be conducted by Mr. Rameshwar Vyanjane, Dy S.P. Kolhapur.
- (d) The letter for attending D.E. was issued on 27.01.2022. The applicant was directed to submit his written statement within 10 days.

- (e) On 09.02.2022 the Applicant had taken the objection on the ground that the required documents are not furnished to him.
- (f) The Applicant who is present in person submits that the enquiry officer is biased and predetermined and the applicant's right to cross examine the witnesses of the prosecution is denied, as 13 witnesses are examined in his absence.

2. The learned Presenting Officer for the Respondents relied on the affidavit-in-reply dated 15.07.2021 on behalf of Respondent No.3, Mr. Ishwar D. Omase, Police Inspector, office of S.P. Kolhapur. She submits that she has received instructions from the Enquiry Officer, Mr. Rameshwar Vyanjane, Dy S.P. Kolhapur. She submits that all the documents were furnished to the Applicant. The Applicant has given answer to the charges. The evidence of the witnesses is recorded and the statement of the delinquent i.e. Applicant is also recorded. Now the enquiry is at the stage of conclusion. The delinquent has participated in the D.E. by filing his reply. The learned P.O. relies on the judgments of Hon'ble Supreme Court in case of **Union of India & Anr Versus Kunisetty Satyanarayana, AIR 2007 SC 906**, wherein it is held that ordinarily no writ lies against a charge-sheet or show cause notice, because it is an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. She further relied on the judgment of **Secretary. Min. of Defence & Ors. Versus Prabhash Chandra Mirdha, AIR 2007 SC 909**, wherein the Hon'ble

Supreme Court has reiterated the ratio laid down in the case of **Kunisetty Satyanarayana (supra)**.

4. The learned P.O. for the Respondents further submits that the S.P. has given patient hearing to all the grievances made by the Applicant. She relies on the letter dated 10.12.2020, Mr. Shailesh Balkawade, S.P. Kolhapur. She submits that as on today Mr. Abhinav Deshmukh, S.P. is not the Enquiry Officer, but Mr. Shailesh Balkawade, S.P. is the Enquiry Officer and he has refused the Applicant's request of closing the D.E. The learned P.O. further submits that whenever the Applicant was called for the Enquiry, he did not remain present and therefore he did not get the opportunity to cross examine the witnesses. She submits that not 13, but 8 witnesses are cross examined.

5. Considered the submissions made by the learned Advocate and learned P.O.

6. We have gone through the affidavit filed by the Respondents. We have also perused the charge-sheet, letters and show cause notice commencing the D.E. No good ground is pointed out by the learned Advocate for challenging the D.E. and thereby there is no good reason to grant prayer for interim relief. The grounds for interim relief pleaded are baseless and cannot stand in law. They are vague and imaginary. From the submissions made by the learned

P.O. it is clear that the D.E. has already been initiated and substantially completed. No specific malice is pointed out while conducting the D.E. against the Applicant. We are not inclined to grant interim relief. However, we direct the Enquiry Officer to start the enquiry. Recall all the witnesses, be it 13 or 8, direct them to remain present so that the applicant or through his friend officer can cross examine the witnesses. This process should be completed on or before 31.03.2022.

7. The Applicant is directed to remain present and appear before the Enquiry Officer on 15.02.2022. Enquiry to start on 15.02.2022. Hamdast. Interim relief is rejected.

8. The learned Counsel submits that as the interim relief is not granted, O.A. may be disposed of.

9. In view of the above, Original Application stands disposed of.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar J.,)
Chairperson

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