

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 54 of 2019 (DB)**

Shashimohan Gangadhar Nanda,  
Aged 56 years, Occ. Service,  
R/o Darda Nagar, Yavatmal.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Urban Development Department,  
Mantralaya, Mumbai.
- 2) Commissioner / Director,  
Municipal Administration,  
having its office at Govt. office,  
3<sup>rd</sup> floor sir Pochkhanwala Marg,  
Worli, Mumbai.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri S.A. Sainis, P.O. for the respondents.**

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**Coram :- Shri Shree Bhagwan,  
Member (A) and  
Shri Anand Karanjkar, Member (J).**

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**JUDGMENT**

**Per : Anand Karanjkar : Member (J).**

**(Delivered on this 1<sup>st</sup> day of March,2019)**

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. This application is filed by the applicant to quash the departmental inquiry no.24/2004 initiated against him on the basis of charge sheet dated 03/05/2003. The main contention of the applicant is that the procedure followed by the respondents is absolutely in violation of the law laid down by the Hon'ble Apex Court in case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., AIR 2016 SCC,101.** It is submitted that in para-33 of the Judgment specific direction was given by the Hon'ble Apex Court that every employer (whether State or Private) shall make sincere endeavour to conclude the departmental proceedings once initiated against the delinquent employee within a reasonable time by giving priority and it should be within a period of six months. It is further laid down that if it is not possible for the employer to conclude the inquiry due to unavoidable reasons then it shall be concluded within a period of not more than one year.

3. In view of the above directions, as the D.E. is not completed within 14 years since the date of issuance of the charge sheet, therefore, the applicant rushed to this Tribunal and requested for the relief. The matter came up before this Bench for the hearing on 4/2/2019 and specific directions were given to file the reply in this matter within two weeks because the inquiry was commenced in 2004 and even after expiry of 14 years it not completed. The matter was adjourned to 20/02/2019 on that day the learned P.O. requested

for time to file reply. In the interest of justice the matter was adjourned till 26/02/2019 and understanding was given that on failure to file reply, the matter will be decided on merit.

4. On 26/02/2019 the learned P.O. placed on record the letter issued by the Regional Inquiry Officer, Amravati. It was noticed by this bench that the letter was very vague and further direction was given to the learned P.O. to file clear affidavit and direction was given to the Inquiry Officer to remain present before this Tribunal on 01/03/2019. Today, when this matter came before this bench the learned Inquiry Officer remained absent. The learned P.O. could not make any statement why the Inquiry Officer remained absent.

5. We have perused the charge sheet issued on 3/5/2003. The charge no.1 was that when the applicant was serving as Chief Officer, Nagar Parishad, Pauni, District Bhandara during period from 17/07/1998 to 06/02/2000, while making expenditure about Rs.30,000/- permission of the General Body was essential. It was alleged that the applicant violated this rule. It was also alleged that the General Body of the Council observed that the tender submitted by the party was illegal, but in spite of it the applicant issued the Cheque for Rs.2,19,850/- to the Supplier. On perusal of the documents, it seems that though the charge sheet was issued on 3/5/2003 the Government passed the order on 16/4/2004, by this

order the Government appointed the Presenting Officer and the Divisional Inquiry Officer, Nagpur was appointed as the Inquiry Officer to conduct the inquiry. The learned counsel for the applicant invited our attention to Annex-A-3 which is dated 12/6/2006 written by the Regional Special Officer, Divisional Inquiry, Nagpur Division, Nagpur. In this letter it was informed to the Director, Directorate of Municipal Council that the office of the Divisional Inquiry Officer was closed w.e.f. 30/06/2006, therefore, all the papers of the inquiry were forwarded by that authority to the Director of Municipal Council Directorate. We have perused letter at Annex-A-4 dated 08/12/2016 written by the Regional Inquiry Officer, Amravati Division, Amravati. By this letter the Inquiry Officer informed Shri G.B. Shinde, Under Secretary, Urban Development Department, Mantralaya, Mumbai that as the office of the Divisional Inquiry Officer, Nagpur was again opened from 17/02/2016, therefore, the inquiry of the applicant be transferred to that office. It appears from the record even after noticing this letter, no action was taken by the Under Secretary. In this back ground, it is important to note that the Government was the Competent Authority to appoint the Inquiry Officer and the Divisional Inquiry Officer, Amravati was appointed to conduct the inquiry. It was his duty to complete the inquiry but without doing so he wrote letter to the Under Secretary and remained silent without any reason. In this matter the learned P.O. submitted the letter dated 20/02/2019 written

by the Regional Divisional Inquiry Officer, Amravati Division, Amravati. Here we would like to point out that this letter was in relation to the inquiry against the applicant in respect of alleged misconduct committed by him when he was Chief Officer, Nagar Parishad, Akot, Dist. Akola. This letter has no relevance with the present inquiry.

6. After considering all the facts and circumstances of the case it appears that no reasonable explanation is given why there is inordinate delay more than 14 years in completing the inquiry. After reading the Judgment in case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano.** (cited supra) it appears that the respondents were under obligation to place before this Tribunal what were the difficulties due to which the inquiry could not be completed within a suitable time. The law laid down by the Hon'ble Apex Court has a statutory force, no one can ignore this legal position and the respondents cannot say that they were not aware of the Judgment and law laid down by the Hon'ble Apex Court. Under these circumstances, there is no justification to prolong this matter further. The learned P.O. has invited our attention to the Judgment passed in O.A.No.55/2019 by this Bench on 14/02/2019. It is submitted that in that matter the applicant was the same person and this Bench directed the respondents to complete the inquiry within a period of three months from the date of this order. It is submitted that in the

interest of justice same direction be issued. In the present case we would like to distinguish the case that no steps were taken by the respondents to place before this Tribunal what were the causes for not completing the inquiry within reasonable time. Secondly, though the Inquiry Officer was specifically called upon to appear before this Bench to explain, but he avoided to do so, he did not show courtesy to inform the learned P.O. what were his official difficulties or personal difficulties for not appearing before this Bench today. We can understand several Authorities are functioning in the Government department and the government has to depend on several components for completing any task, therefore, no blame can be given to the government, but we would like to point out that the lethargy of the respondents in not paying any heed to the law laid down by the Hon'ble Apex Court and specific directions issued by this Bench it can be said that the approach of the respondents is irresponsible.

7. The learned counsel for the applicant submitted that due to this conduct of the respondents not completing the inquiry within reasonable time, the applicant has sustained severe loss to his career, due to pendency of this inquiry the applicant was superseded and persons junior to him were promoted. It is contended that this was in fact punishment to the applicant without proof of his

misconduct and therefore there are no equitable grounds in this case to extend the time to complete the inquiry.

8. In view of this discussion, we do not think it suitable to keep this matter alive. Hence, we pass the following order –

**ORDER**

- (i) The O.A. is allowed.
- (ii) The inquiry no. 24/2004 initiated against the present applicant is hereby quashed and he is exonerated from all the charges.
- (iii) No order as to costs.

**(Anand Karanjkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Member (A).**

**Dated :- 01/03/2019.**

\*dnk.