IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15539 OF 2022

Aniruddha Ganesh Pathak,

..**Petitioner**

Versus

1. **Registrar General**,
   Bombay High Court, Bombay.

2. **State of Maharashtra**,
   Through its Secretary, Law and
   Judiciary Department, Madam Kama
   Road, Hutatma Rajguru Chowk,
   Mantralaya, Mumbai – 400 032. ..**Respondents**

Mr. Abhijeet A. Desai a/w. Mr. Vijay Singh, Ms. Daksha Punghera & Mr. Ankit Jadhav i/by. Desai Legal for the Petitioner.
Mr. Rajesh S. Datar for Respondent No.1-High Court.
Mr. A. R. Deolekar, AGP for Respondent No.2-State.

CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.

Date on which the Arguments were concluded : 18th APRIL 2024.
Date on which the Judgment is pronounced : 23rd APRIL 2024.

Judgment :- (Per Jitendra Jain, J.)

1. **Rule**. Rule made returnable forthwith. Heard finally by consent of the parties.

2. This Petition under Article 226 of the Constitution of India is filed to quash the order No. DAJ 1521/768/CR 159/Desk-3, Law and Judiciary Department, Govt. of Maharashtra dated 14th January 2022

passed by the Respondent No.2–Secretary, Law and Judiciary Department, Mumbai ordering removal of the Petitioner from judicial service and further seeks directions for reinstatement in service with consequential benefits.

Brief facts are as under:-

3. On 19th March 2010, the Petitioner was appointed as a Civil Judge Junior Division. During the tenure of his service, the Petitioner was posted at various districts till the date of his removal.

4. Pursuant to the complaints with regard to the conduct of the Petitioner, Principal District and Sessions Judge, Nandurbar on 17th February 2017 filed a report with the office of Respondent No.1. In the said report, it was stated that from the appearance and body language, the Petitioner appeared to be an abnormal person and further several complaints of his conduct and behaviour were received by the District Judge at Shahada. The complaints *inter alia* related to his misbehaviour and not attending the Court, thereby lowering reputation of judiciary. A confidential letter to the said effect was also sent by the District Judge. In the said report, it is also stated that many staff members have complained that the Petitioner would arrive in the Court under the influence of liquor. The report also states that the Members of the Bar Association met Principal District Judge and putforth their grievances which were on the same lines as stated above. The said grievances were brought to the notice of the then Guardian Judge of Nandubar District.

The said report was accompanied by copy of complaint of Shahada Bar Association and two confidential reports of District Judge.

5. The Shahada Bar Association on 25th March 2017 passed a Resolution in relation to the behaviour of the Petitioner and his Court functioning and same was forwarded to the Guardian Judge and requested that the Petitioner be sent on leave.

6. On 2nd May 2017, District Judge, Jalgaon filed a discreet enquiry report in respect of complaints against the Petitioner. The said report was forwarded to Respondent No.1. In the said report, District Judge has given a first hand narration of his visit on 29th April 2017 to the Court premises at Shahada Court. On that date, the learned District Judge was in the Court premises from morning 10:15 a.m. till 6:10 p.m. observing the behaviour and conduct of the Petitioner in the Court and outside the Court. During the said visit, it was found that the Petitioner entered into Court at 11:17 a.m. and around 70 matters were fixed on criminal board. However, the Petitioner unilaterally adjourned the matters without consulting Advocate or litigants and at 12:20 p.m. rose from the Dais. After some time, the Petitioner sat in the room of Clerk and was entertaining Advocates, litigants etc. in that room. He was found loitering around the Court premises and talking to the litigants. On enquiry, it was found that since 29th April 2017 was a “drive day” no evidence was recorded. On enquiry, it was also found that the Petitioner used to take liquor at his house.

7. On 6th January 2018, a serious incident occurred at Maharashtra Judicial Academy at Uttan. The Petitioner was selected for three days refresher course on mediation at the academy starting from 7th January 2018 to 9th January 2018. At that time, the Petitioner was posted at Paithan, Aurangabad. The Petitioner arrived at the academy at 11:00 a.m. along with his peon although it was the policy of the academy not to bring family members or any other member. In a letter dated 6th January 2018 by Joint Director of the Academy to the Director, Mediation Centre of Bombay High Court, it is recorded that the Petitioner was in an inebriated state and was not even able to walk properly and further did not give proper reply, therefore, the Petitioner was relieved immediately. On the relieve letter, there is an endorsement that the Petitioner was under the influence of alcohol, and therefore, should be relieved immediately. The said endorsement is that her Ladyship who was in-charge of the Academy at that point of time. On 8th January 2018, the said incident was reported by the Maharashtra State Legal Services Authority to the Respondent No.1 accompanied by a report, which was signed by the Joint Director, Deputy Director, Assistant Director and Peon of the Academy. The report in detailed narrates the incident. In the said report, it is stated that on enquiry, the Petitioner stated that on his way to the Academy in the vehicle “Gypsy” his vehicle met with an accident and the car got damaged and he too was severely injured and had took another vehicle to reach the

Academy. On account of the said incident, he was on medication and had not consumed the liquor.

8. The aforesaid incident at Uttan, resulted into issuance of Memorandum of Charges to the Petitioner on 7th May 2018 and the Petitioner was directed to submit his report within 15 days. There were 7 charges framed against the Petitioner. Alongwith the memorandum, the Petitioner was also furnished with various reports on the basis of which the Memorandum of Charge was issued. On 20th May 2018, the Petitioner replied to the aforesaid charges and denied all of them. With respect to charge No.1 he stated that the charge is vague in nature and he did not commit any breach of judicial discipline. With respect to charge No.6 he stated that 29th April 2017 being "drive day" for disposing of cases, regular matters were adjourned. With respect to charge No.7 dealing with an incident at Uttan he stated that on account of accident his car was severally damaged and he suffered neurological shock as well as contusions and abrasions on thighs and lower legs and was under constant pain and he was under medication and therefore, was unable to walk. He also stated that immediately thereafter he gave a detailed representation along with medical documents to Respondent No.1.

9. Statement of various persons connected with Uttan incident and the conduct of the Petitioner at Shahada, were recorded during the period February-2019 to April-2019 as part of enquiry process.

10. On 16th July 2019, Enquiry Officer gave his detailed report after considering all the evidence and came to a conclusion that charges No.1, 6 and 7 have been proved.

11. On perusal of the enquiry report, the Respondent No.1 issued a departmental enquiry show cause notice on 7th November 2019 to the Petitioner to show cause why the enquiry report in support of the proved charges may not be accepted and appropriate punishment may not be imposed upon him. The enquiry report was also furnished to the Petitioner. The Petitioner filed his reply to the departmental enquiry proceedings and pleaded for dropping of the same. On 21st January 2022, Respondent No.1 under the cover of letter of even date enclosed the impugned order passed by Respondent No.2 dated 14th January 2022 informing the Petitioner about his removal from service under Rule 5(1)(viii) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. It is on this backdrop that the Petitioner is before us today.

Submissions of the Petitioner :-

12. The Petitioner submits that the impugned order is passed on surmises and conjectures. The Petitioner submits that insofar as the issue relating to non-following of dais timing is concerned, at no point of time, prior to 2018, any show cause notice was issued seeking his explanation, although he has been in service since 2010. The conduct of the Respondent in raising the said issue of dais timing after the alleged incident at Uttan depicts preset mindset to remove the

Petitioner. The Petitioner submits that insofar as the incident at Uttan is concerned, the Respondents did not conduct any medical test which would indicate that the Petitioner had consumed the liquor. The Petitioner submits that the witnesses who were cross-examined cannot be relied upon since answers were contradictory. The Petitioner submits that in the alternative on the facts of the present case, the punishment for removal is disproportionate to the charges levied and proved against him. The Petitioner in support of his various submissions relied upon the decision of the Bombay High Court in the case of ***Udaysingh s/o Ganpatrao Naiknimbalkar Vs. Governor, State of Maharashtra, Bombay & Ors.***[1], ***Rahul s/o Abhimanyu Ranpise Vs. The State of Maharashtra & Anr.***[2], and the decision of the Madras High Court in the case of ***N.D. Elangovan Vs. The Disciplinary Authority and Principal District Judge***[3].

Submissions of the Respondent :-

13. Per contra, the Respondent No.1 supported the order of punishment and submitted that the Petitioner was occupying the post of a Judge and the conduct expected of him should be above par. It is Respondent No.1's submission that any of his conduct which would demeanor the image of the judicial office has to be seriously considered to protect the dignity of the majestic. The Respondent No.1 submitted that the evidence on record clearly proves the charges levied against the Petitioner and, therefore, on consideration of all the materials on record

1 1995 (1) L.L.N. 616
2 Writ Petition No.1930 of 2007 dtd. 24th January 2012
3 2010 SCC Online Mad 1104

no perversity can be said to have crept in the impugned order and therefore, the present petition is required to be dismissed.

14. We have heard the learned counsel for the Petitioner and the Respondents and with their assistance have perused the documents annexed to the petition, reply affidavit and rejoinder filed by the parties.

Analysis and conclusions :-

15. The impugned order removing the Petitioner from the judicial services is on the basis that following charges, namely, Charge No.1, Charge No.6 and Charge No.7 have been proved and, therefore, major punishment of removal from service under Rule 5(1)(viii) of the Maharashtra Civil Services (Conduct) Rules, 1979 has been passed. The said charges are reproduced herein.

> *CHARGE-1*
>
> *"That during the abovesaid period you did not observe the dais time. You were remaining absent in the court and used to stay at your residence during office hours which caused inconvenience to the advocates and litigants. By indulging into such acts you not only committed a breach of judicial discipline but also exhibited lack of absolute devotion to duty as a Judicial Officer.*
>
> *CHARGE-6*
>
> *On 29.04.2017 the District Judge-1, Bhusawal found that you resumed on dais at 11.17 a.m. and retired from dais at 12.20 p.m. and thereafter sat in clerk room and again in the afternoon in front of Assistant Superintendent. Though there were 70 matters on the board, you called the matters and gave further dates without consulting advocates/litigants. You never attended the dais in second session and used to wander in the passage by chitchatting with the litigants. By this act on your part shows dereliction in your duty and you failed to maintain absolute devotion to duty. You thereby conducted yourself in a manner unbecoming of a Judicial Officer.*
>
> *CHARGE-7*
>
> *That you were nominated for 3 days/20 hours Refresher Course for Trained Mediators from 07.01.2018 to 09.01.2018 at Maharashtra Judicial Academy Uttan. You reported at the Academy on 06.01.2018 at*

> *about 11.00 a.m. alongwith your peon Shri Kumawat. At that time you were found to have consumed liquor and were in state of intoxication. You were also unable o walk properly. Though you were informed that the Academy does not permit peons or even family members in the rooms allotted to the participants., you forcefully took the said peon alongwith you in the room alloted to you.*
>
> *The said peon was found sleeping on the bed. Thereafter during interaction with the Director of the Academy you gave evasive answers and shown disrespect to Her Ladyship, by indulging in such acts you conducted yourself in a manner unbecoming of a Judicial Officer and failed to maintain Judicial discipline or propriety."*

16. It is a settled position that the scope of the judicial review under Article 226 of the Constitution of India in service matters is narrow and unless the decision making process is shown to be vitiated, the Court should not exercise its discretion and jurisdiction as an Appellate Court. In service matters, an employer is the best judge to consider the allegation and the punishment to be imposed and unless the process of establishing the charges and imposing the punishment has not been followed in accordance with the principles of natural justice, the Court would and should be slow in interfering in such matters.

17. It is also necessary to take into consideration judgment of the Supreme Court in the case of ***High Court of Judicature at Bombay Through its Registrar vs. Shashikant S. Patil and Another***[4] as regards the scope available for this Court while exercising jurisdiction under Article 226 of the Constitution of India while considering a challenge to an order passed by the Disciplinary Authority of the High Court. In

4 (2000) 1 SCC 416

paragraph 16, it has been observed as under:-

> *"16. The Division Bench of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/ disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such inquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the inquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution."*

18. In the instant case before us, it is not the case of the Petitioner that there has been a violation of decision making process in arriving at the conclusion which is reflected in the impugned order dated 14th January 2022 and rightly so. The Petitioner was given Memorandum of Charges on 7th May 2018 alongwith all the supporting documents. The Petitioner replied to the said memorandum of charges on 20th May 2018. The Petitioner was also granted opportunity to cross-examine the witnesses and the said right was availed by the Petitioner. Post the enquiry report, the Petitioner was given a show cause by the Disciplinary Committee to give his say on the Charge Nos.1, 6 and 7. The Petitioner replied to the said show cause notice issued by the Disciplinary Committee. The Respondent No.1 after considering the

evidence on record including submissions made by the Petitioner arrived at the finding that Charge Nos.1, 6 and 7 have been proved and consequently, thereafter, imposed punishment of removal from judicial service in accordance with Rule 5(1)(viii) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. Therefore, in our view, no fault can be found in the decision making process adopted by the Respondents and, therefore, to that extent, this Court would not be inclined to interfere in the impugned order.

19. It is a universally accepted norm that Judges and Judicial Officers must act with dignity and must not indulge in a conduct or behaviour which is likely to affect the image of judiciary or which unbecoming of a Judicial Officer. If the Members of the judiciary indulge in a behaviour which is blameworthy or which is unbecoming of a Judicial Officer, the Writ Courts are not expected to intervene and grant relief to such a Judicial Officer. Ordinarily, an order terminating services of a Judicial Officer by passing an order of dismissal from service or other on the recommendation of the High Court as contemplated under Article 235 of Constitution of India would be liable to be interfered with broadly on proof of breach of a constitutional provision, principles of natural justice or the applicable service rules.

20. It is relevant to note the observation of the Supreme Court in the case of ***Ram Murti Yadav Vs. State of U. P. & Anr.***[5]

5 **(2020) 1 SCC 801**

> *"14. A person entering the judicial service no doubt has career aspirations including promotions. An order of compulsory retirement undoubtedly affects the career aspirations. Having said so, we must also sound a caution that judicial service is not like any other service. A person discharging judicial duties acts on behalf of the State in discharge of its sovereign functions. Dispensation of justice is not only an onerous duty but has been considered as akin to discharge of a pious duty, and therefore, is a very serious matter. The standards of probity, conduct, integrity that may be relevant for discharge of duties by a careerist in another job cannot be the same for a judicial officer. A Judge holds the office of a public trust. Impeccable integrity, unimpeachable independence with moral values embodied to the core are absolute imperatives which brooks no compromise. A Judge is the pillar of the entire justice system and the public has a right to demand virtually irreproachable conduct from anyone performing a judicial function. Judges must strive for the highest standards of integrity in both their professional and personal lives."*

21. Another decision which guides us on the judicial service is

Tarak Singh & Anr. Vs. Jyoti Basu & Ors.[6]

> *"21. It must be grasped that judicial discipline is self-discipline. The responsibility is self-responsibility. Judicial discipline is an inbuilt mechanism inherent in the system itself. Because of the position that we occupy and the enormous power we wield, no other authority can impose a discipline on us. All the more reason judges exercise self-discipline of high standards. The character of a judge is being tested by the power he wields. Abraham Lincoln once said: "Nearly all men can stand adversity, but if you want to test a man's character give him power." Justice-delivery system like any other system in every walk of life will fail and crumble down, in the absence of integrity.*
>
> *22. Again, like any other organ of the State, the judiciary is also manned by human beings - but the function of the judiciary is distinctly different from other organs of the State – in the sense its function is divine. Today, the judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock at all the doors fail people approach the judiciary as the last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth. Because of the power he wields, a judge is being judged with more strictness than others. Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the justice-delivery system resulting in the failure of public confidence in the system. We must remember that woodpeckers inside pose a larger threat than the storm outside."*

6 **(2005) 1 SCC 201**

22. It is also to be noted that in the case of ***Nawal Singh vs. State of U.P. and Another***[7], it has been held that judicial service cannot be treated as a service in the sense of employment. Judges while discharging their functions exercise the sovereign judicial power of the State and hence standards expected to be maintained are of the highest nature.

23. The above observations of the Supreme Court would be relevant for analysing its applicability to the present facts before us.

24. Charge Nos.1 and 6 relates to following dais timing and conduct of the Petitioner in the Court. The Petitioner has not challenged the impugned order on the ground of malafideness. The report of Principal District and Sessions Judge, Nandurbar dated 17th February 2017, records what he found and saw on his visit to Shahada Court on 25th November 2016. The said report records that the appearance and body language of the Petitioner was not of the normal person and further the Petitioner was also personally counsel to behave properly by the Principal District Judge Shahada. On enquiry from the staff members and other persons in the Court premises, including the bar members serious grievance against the Petitioner on his behaviour including not following dais timing and remaining absent in the Court surfaced. The said report also records that the Petitioner used to arrive in the Court under influence of liquor. It is not the case of the Petitioner

7 (2003) 8 SCC 117

that the person who prepared the said report is biased against the Petitioner.

25. On 21st March 2017, the Bar Association of Shahada passed a resolution on the conduct and the behaviour of the Petitioner and the Bar Association requested the guardian judge to take appropriate action and sent the Petitioner on leave. The existence of this resolution is not disputed. Furthermore, no malafide can be attributed to the Bar Association who represents the lawyers practicing at Shahada Court.

26. A report of the District Judge, Jalgaon of his visit at Shahada Court and on being there for whole day also records the conduct of the Petitioner in not following the dais timing. On enquiry during the course of his visit, it was also surfaced that the Petitioner used to consume liquor. In the evidence of the President of Bar Association of Shahada Court, it is proved that the resolution infact was passed and communicated to the guardian judge on the conduct of the Petitioner. The Petitioner in his reply dated 20th May 2018 has vaguely replied to the said Charge Nos.1 and 6. The enquiry report after considering the said evidences have recommended that Charge Nos.1 and 6 are proved. The Petitioner in the reply to the show cause notice issued by the Disciplinary Committee has stated that observation of Principal District Judge on a particular day of his visit would not mean that the Petitioner was not following the dais timing on all the days. The Petitioner submitted that the day when the Principal District Judge visited, was a

"drive day" and, therefore, the matters were adjourned. The Petitioner in his reply has also stated about his exemplary disposal record. Thereafter, the Disciplinary Committee after considering all the evidences and replies filed by the Petitioner has come to a conclusion that Charge Nos.1 and 6 are proved. The Respondent No.1 has not based its decision only on the basis of 1 or 2 incident but has taken cumulatively all the incidents in coming to the final conclusion. The resolution of the Bar Association that the Petitioner has not been following the dais timing is also supported by discreet enquiry conducted on behalf of Respondent No.1. The contention of the Petitioner that the findings of the Disciplinary Committee is mirror image of the Enquiry Officer would also not absolve the Petitioner from the charges which are levied since the Disciplinary Committee agreed with the findings of the Enquiry Officer after discussing the evidence. It cannot be said that the impugned order is perverse and without any independent application of mind. Therefore, in our view, this Court cannot come to a conclusion that the findings of the Disciplinary Committee can be said to be perverse or without any material in support thereof. This Court cannot sit over the decision of the Respondents to re-appreciate the evidence to come to a conclusion whether the punishment is justified and disproportionate on the basis of evidence on record.

27. With respect to Charge No.7, with regard to the incident at Uttan on 6th January 2018 is concerned, the evidence of Mr. Gaikwad, who was working at the Academy clearly shows that the Petitioner was under influence of liquor when he arrived at the Academy. The contention of the Petitioner that he was on medication due to accident which occurred on his way to the Academy is not proved by the Petitioner. The Petitioner in his reply has not stated as to what were the medication which he took which resulted into him being not in a position to stand on his own feet. In the reply to the show cause notice, the Petitioner has stated that he suffered neurological shock on account of the accident and lot of pain in his limbs and legs. We fail to understand that if the accident was so serious how the Petitioner reached the Academy and no marks of any injury was found on his body moreso when according to the Petitioner, the vehicle in which he was travelling was severely damaged. Although, the Authorities at the Academy did not conduct the medical examination, it does not mean that the evidence which has come on record on this issue can be ignored moreso when the Petitioner himself has not proved the occurrence of accident which resulted him on medication which consequently let him being not in a position to stand on his own feet. It is also important to note that although there was an express bar of any other person to be accompanied with the participant at the Academy, the Petitioner still got his peon to accompany him and the said peon

was also found as occupying the room allotted to the Petitioner. The peon disappeared only after the incident at Uttan. The endorsement and the notings on the relieving letter by the head of the Academy, Joint Director, Deputy Director, etc. also goes on to prove Charge No.7 coupled with the fact that various enquiries made by the Principal District Judge and the staff members of Shahada Court also proves that the Petitioner was regularly under the influence of liquor. We see no reason why various authorities at the Academy would give false evidence with respect to the incident against the Petitioner. The Disciplinary Committee has appreciated the evidence which was also furnished to the Petitioner and has come to a conclusion that Charge No.7 has been proved. We, therefore, find no reason in interfering with the impugned order, moreso because the Petitioner is occupying the post which is looked upon with high respect and if the Disciplinary Committee has come to a conclusion of removal of service on the basis of material before them, it cannot be said to be perverse.

28. The contention of the Petitioner that the punishment is disproportionate is also without any merits. The proportionality has to be examined on the facts of each case. The fact that the Petitioner was occupying the post of a Judge, his conduct and behaviour has to be above par is a very crucial aspect which has to be considered for imposing the punishment. The evidence on record clearly proves Charge Nos.1, 6 and 7 and the petitioner had lost the faith of not only the bar

but also the Bench and the staff working with him on account of his conduct. Therefore, in our view, the punishment imposed is justified in the facts of the case. Discretion having been exercised without any arbitrariness by the Disciplinary Committee and after conducting enquiries and following principles of nature justice, this Court does not find any reason to interfere in the decision in exercise of its jurisdiction under Article 226 of the Constitution of India.

29. We now propose to deal with the decisions relied upon by the Petitioner.

30. The first decision relied upon by the Petitioner in the case of ***N. D. Elangovan (supra)*** was a case where the Petitioner therein had given the name of the medicine which he had taken and, therefore, it was on this fact that the High Court adjudicated the issue before them. In the present case before us, the Petitioner has not laid any evidence of the accident and as to which was that medicine which he had consumed which had the effect of inebriation.

31. The learned Counsel for the Petitioner though relied upon the decision in ***Udaysingh (supra)*** it is to be noted that this judgment of the Division Bench has been set aside by the Supreme Court on 9th April 1997. It has been held that misconduct alleged against the Respondent therein had been proved and that the High Court was not justified in setting aside the punishment of dismissal that was imposed on him. Since the decision on which the learned Counsel for the Petitioner

sought to place reliance has been expressly set aside with the observation that judicial review is not an appeal from a decision but a review of the manner in which the decision is made, said aspect is also required to be kept in mind. Therefore the reliance placed by the Petitioner on this decision is misconceived.

32. The last decision relied upon by the Petitioner in the case of ***Rahul (supra)*** is for the proposition that the Disciplinary Authority is not bound by the findings of the Enquiry Officer and under Article 226 of the Constitution of India, this Court can interfere in the findings of the disciplinary authority. In our view, the Disciplinary Authority has not blindly followed the findings of the Enquiry Officer but on a perusal of the impugned order passed by the Disciplinary Authority, it is very clear that the disciplinary authority have referred to the evidences on record and thereafter have agreed with the findings of the Enquiry Officer. This is a case where after examining the evidence independently Disciplinary Authority has come to a conclusion agreeing wtih Enquiry Officer's finding. Therefore, even on this count, the decision in the case of ***Rahul (supra)*** cannot come to the rescue of the Petitioner.

33. In view of above, we do not see any reason to exercise our discretion under Article 226 of the Constitution of India. The Writ Petition is dismissed with no order as to costs.

[JITENDRA JAIN, J.] **[A. S. CHANDURKAR, J.]**