

**(2024) 03 BOM CK 0024**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 44 Of 2024**

Kapil

APPELLANT

Vs

Union Of India And Others

RESPONDENT

**Date of Decision :** 07-03-2024

**Acts Referred:**

**Citation :** (2024) 03 BOM CK 0024

**Hon'ble Judges :** Ravindra V. Ghuge, J; R. M. Joshi, J

**Bench :** Division Bench

**Advocate :** R. P. Dhase, S. B. Narwade, R. R. Bangar, P.L. Shahane, A. S. Deshpande

**Final Decision :** Dismissed

## Judgement

R. M. Joshi, J

1. By consent of both sides, heard finally at the stage of admission.
2. The Petitioner is seeking direction to the Respondents to supply documents sought by him from the Respondents in the domestic enquiry, to direct the Respondents to change the Enquiry Officer and videograph the proceeding of the enquiry and also to permit him to engage Legal Practitioner in the enquiry.
3. The Petitioner is Probationary Officer (Assistant Manager) with Maharashtra Gramin Bank. In respect of an incident occurred on 27th April, 2023 involving the Petitioner and one of the customers of the Bank, averments are made including the Petitioner having lodged a complaint against a customer in the concerned Police Station. On the basis of complaint of the said customer, the Petitioner came to be suspended from service by order dated 8th May, 2023. On 10th May, 2023 a show cause notice was issued to him which was received by him on 29th April, 2023. This was followed by another show cause notice dated 12th June, 2023. However, as a departmental enquiry was not commenced even after the lapse of 90 days therefrom, Writ Petition bearing No. 10773 of 2023 came to be filed before this Court. During the pendency of the petition, memo of charge-

sheet dated 11th October, 2023 was issued to the Petitioner. The Petitioner demanded documents by representation dated 25th October, 2023, but submitted his defence statement on 26th October, 2023 itself. His request for engaging a practicing Advocate to defend him in the departmental enquiry was rejected by the Competent Authority. It is claimed by the Petitioner that the Presenting Officer is legally trained person and has acquired law degree and therefore, the Petitioner is entitled to be represented by a practicing Advocate. It is alleged by the Petitioner that the documents sought by him are refused by the Enquiry Officer so also the documents sought to be placed by him were not accepted and as such conduct of the Enquiry Officer is biased and favourable to the Bank. With these averments prayers are sought for direction to supply of the documents, appointment of practicing Advocate as Legal Representative and videography of the enquiry proceedings with change in the Enquiry Officer.

4. Respondent Nos. 2 to 4 filed affidavit-in-reply of Chief General Manager of the Bank resisting the Petition. The Respondents have pleaded previous disciplinary action taken against the Petitioner and orders passed therein. As far as the engaging legal practitioner to defend in the departmental enquiry, it is the contention of the Respondents that in view of Maharashtra Gramin Bank (Officers and Employees) Service (Amended) Regulations, 2018 (for short Regulations, 2018) and more particularly Regulations No. 44 there is restriction provided on engagement of legal practitioner and therefore, the such permission has been refused by the Competent Authority. It is denied that the Enquiry Officer or Presenting Officer are legally trained person or a legal practitioner. With regard to the contentions of the Petitioner about documents it is contention of Respondents that the Enquiry Officer has dealt with the said application and decided the same. It is alleged that the Petitioner has made false and frivolous allegations against the Enquiry Officer, Presenting Officer and Competent Authority.

5. We have carefully considered the submissions of learned Advocates of both sides.

6. There is no dispute about the fact that the Petitioner has been issued charge-sheet and departmental enquiry is being conducted under the Regulations, 2018. Undeniably, Regulation No. 44 restricts engagement of legal practitioner and said engagement is not permitted without permission of the Competent Authority. The Petitioner herein claims that the Presenting Officer is a legally trained person and as such he is entitled to engage a legal practitioner to defend himself in the enquiry. Whereas, Respondent Nos. 2 to 4 dispute the said fact with specific contention that neither Enquiry Officer nor the Presenting Officer are legally trained persons who conduct the domestic enquiries or they are legal practitioner. Suffice it to say that there is no material on record in order to hold that either Enquiry Officer or Presenting Officer are legal practitioners or trained in conduct of the domestic enquiries. Moreover, it is not an anathema to have an LLB graduate as an Enquiry Officer, who performs a duty of a Judge in such a proceeding.

7. As far as the contention of the Petitioner about denial of the documents as sought by him by the Enquiry Officer is concerned, the record indicates that by order dated 18th January, 2024 the Enquiry Officer has dealt with the application filed by the Petitioner seeking documents and rejected the same by recording reasons therefor. Thus, this is not the case, wherein, the application of Petitioner is not decided or disposed off without recording reasons. Prima facie, we hasten to add, that most of the documents sought by the Petitioner may not be relevant to the issue involved in the enquiry. A single glance at the list of documents would indicate to a prudent person that most of the documents have no nexus with the charges levelled upon the Petitioner. We find substance in the contention of learned Advocate for the Respondents, that by making such application, rowing search is sought to create hurdle in completion of enquiry.

8. We therefore, find no reason to direct the Respondents to provide the documents as sought. However, it is clarified that this would not preclude the Petitioner to make application before Enquiry Officer seeking specific documents and if same are relevant to the charges it is open for the Enquiry Officer to take appropriate decision thereon, in accordance with law.

9. As far as prayer for the videography of domestic enquiry is concerned, Petitioner has not shown any Rules/Regulations in this regard and in absence thereof, it is not possible for this Court to pass any such direction, merely on the basis of the allegations made by the Petitioner against the Enquiry Officer. Needless to record that it would always be open for the Petitioner, as an employee, to raise all objections with regard to the fairness of the enquiry before the appropriate forum, at an appropriate stage.

10. Having regard to the above discussion, we find no case being made out by the Petitioner, to issue directions against Respondent Nos. 2 to 4 as sought.

11. In the result, this Writ Petition is dismissed.