

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 19469 of 2021**

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SUNIL PUNJABHAI DANTANIA
Versus
STATE OF GUJARAT

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Appearance:

MR SHALIN MEHTA, SR. ADVOCATE for MR HEMANG M SHAH(5399) for
the Petitioner(s) No. 1

for the Respondent(s) No. 2

MS DHARITRI PANCHOLI, AGP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 22/12/2021

ORAL ORDER

Heard learned Senior Advocate Mr. Shalin Mehta for learned Advocate Mr. Hemang M. Shah for the petitioner and learned AGP Ms. Dharitri Pancholi for the respondent-State.

By way of this petition, the petitioner inter alia challenges an order dated 16.10.2021, whereby the petitioner who was working as Platoon Commandant of Home Guards has been suspended from service.

Learned Senior Advocate Mr. Mehta would draw the attention of this Court to the provisions of the Bombay Home Guards Act, 1947, more particularly Section 6-B thereof and would submit that while the Commandant has the authority to suspend any member of the Home Guard, the power to suspend, has not been exercised by the Commandant as per the requirement of the Section in question. Learned Senior Advocate would further submit that Sub-section 2 of Section 6-B inter alia requires the Commandant to give an opportunity to the concerned employee, and whereas the reasons for suspending etc. of the employee concerned even inspite of the defence of the person concerned, was required to be reduced

in writing, which procedure according to the learned Senior Advocate has not been done. Learned Senior Advocate would further submit that in any case the issue which led to the suspension was a criminal complaint filed against the petitioner in the year 2014 and whereas there was no proximate cause at all for the suspension and whereas the criminal complaint in question had been filed by relative of wife of the petitioner, inter alia alleging commission of offences, and whereas the petitioner having been arraigned for commission of similar alleged offences also by wife of the petitioner where the petitioner and other accused have already been acquitted.

Having regard to the submissions made by learned Senior Advocate Mr. Shalin Mehta, issue **Notice** to the respondents returnable on **03.02.2022**. Learned AGP Ms. Dharitri Pancholi waives service of notice for the respondent No.1. Direct service for rest of the respondents is permitted.

BDSONGARA

(NIKHIL S. KARIEL,J)