

Topic: Consultation With Commission For Taking Disciplinary Action Against Civil Servant Is Mandatory For The Government

Name of the Case: Dinakar Anna Patil v. State of Maharashtra, (1999) 1 SCC 354

Bench: Justice G.T. Nanavati and Justice S.P. Kurdukar

Background: A rule made by Government of Maharashtra said that the government “may, in consultation with the Maharashtra Public Service Commission” make appointments in relaxation of percentage fixed for promotees and directly appointed person.

Issue: Whether under the said rule of ‘consultation’ with the commission was “directory” or “mandatory”?

Judgment: The Court made no reference to the precedent of Manbodhan case and rejected the argument that “may” used in the rule is “directory”, the court observe that to give such a meaning would render the very object of consultation with Maharashtra Public Service Commission whenever necessary. It would give unbridled power to the government to dispense with the ‘consultation’ with Maharashtra Public Service Commission which may result into arbitrary exercise of power by the authority”.