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Smoking judge feels high court heat

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# Smoking judge feels high court heat

Shibu Thomas | TNN

**Mumbai:** Smoking is injurious to health, but a civil judge in Maharashtra found out that it could also earn him a disciplinary rap. Puffing away in "his office" and fraternising with lawyers in the bar room for better part of the court working hours has saddled judge S B Kulkarni with disciplinary action. This February a five-judge disciplinary committee of the Bombay high court acting in its administrative capacity imposed a penalty on the judge currently posted in Buldana by "censuring" him.

A judge for the last 15 years, Kulkarni immediately appealed

against the penalty. He filed a petition before the Bombay high court questioning the power of the committee to censure him. On Thursday the high court dismissed his petition. The HC said it found nothing wrong with the committee's finding and what they described was only a "minor penalty."

In fact, the HC bench of Justices B H Marlapalle and Amjad Sayed observed, "The decision of the disciplinary committee is fully justified".

Advocate Anil Anturkar, counsel for the judge, argued smoking and chatting with lawyers "cannot be construed as acts of misconduct." The HC did not agree.

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The charges were levelled by local lawyers while the judge was presiding over a court in Jamner, Jalgaon in 2007. The principal district judge ordered an inquiry, which finally led to the HC disciplinary committee imposing the penalty this year.

The committee found him guilty of not only puffing away in court premises, but also for reporting late to court. "There is material to hold that the judge occupies seat on the dais for a limited time. He spends much time during working hours in the Diwani room (bar room) with lawyers and smokes in the office. This conduct of the judge is against judicial discipline," said the inquiry report.

The judge's birthday celebrations were also objected to. Though there was nothing on record to show the celebrations were at his instance, the inquiry committee said, Judge Kulkarni "should not have allowed celebration in court

premises during working hours." Advocate Anturkar argued that it was only the state which was empowered to penalise a subordinate court judge on the recommendations of the high court and not the HC committee. The division bench, however, rejected this contention, pointing out that under Article 235 of the Constitution, the power of supervision and control over the district courts and subordinate courts vests with the HC. "The Full House of the HC has delegated its powers to the disciplinary committee for better administration and, therefore, the disciplinary committee acts on behalf of the HC," said the division bench.