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**(2006) 01 DEL CK 0156**  
**In the Delhi High Court**  
**Case No : LPA No. 574 of 2004**

B.K. Kalra

APPELLANT

Vs

Punjab National Bank

RESPONDENT

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**Date of Decision :** 09-01-2006

**Acts Referred:**

**Citation :** (2006) 127 DLT 372 : (2006) 2 LLJ 502

**Hon'ble Judges :** Markandeya Katju, C.J.; Madan B. Lokur, J

**Bench :** Division Bench

**Advocate :** Mukesh Anand, for the Appellant; Jagat Arora and M.K. Datta, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Markandeya Katju, C.J.—With the consent of learned counsel, the appeal is taken up for hearing today. The date of 18th January, 2006 is cancelled.

2. This writ appeal has been filed against the impugned judgment of the learned Single Judge dated 12th May, 2004. Heard learned counsel for the parties and perused the records. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not repeating the same, except where necessary.

3. The appellant was working as Special Assistant in the Branch Office Rani Bagh, Delhi in the employment of the respondent/Punjab National Bank. He was served a charge-sheet dated 18th August, 1998 and an enquiry was conducted on the basis of that charge-sheet. The petitioner/appellant had an objection that the charges in the same were vague but it is submitted by learned counsel for the appellant that nevertheless the enquiry was concluded. Thereafter, another charge-sheet giving details was issued by the Bank dated 20th November, 2000 and the enquiry concluded on the basis of that also. Obviously the second charge was issued because the grievance was that the first charge sheet was vague.

4. In our opinion, this writ petition is pre-mature. It is only when a cause of

action arises that a writ petition can be filed. The cause of action arises when a punishment is given to the appellant and it is only at that stage that he can file a writ petition. At present, nothing has happened. It is possible that the appellant may be exonerated in the enquiry. Hence, there is no cause of action that has arisen and as such the writ petition is pre-mature.

5. A show-cause notice also does not give rise to any cause of action as the punishment order has not yet been passed. When any punishment order is passed, it is only thereafter that a cause of action arises and the appellant can then challenge the same by means of an appeal, if provided in the Rules, or in a writ petition. Ordinarily, no writ lies against a show cause notice, vide *Executive Engineer, Bihar State Housing Board Vs. Ramesh Kumar Singh and others*, , *The Special Director and Another Vs. Mohd. Ghulam Ghouse and Another*, , etc.

6. Moreover, in our opinion, there is no hard and fast legal principle that a second enquiry cannot commence de novo.

7. Learned counsel for the appellant has relied upon a decision of the Supreme Court in *State Bank of Bikaner & Jaipur v. Ajay Kumar Gulati* (1996) SCC 485 vide para 5. In our opinion, no absolute legal principle has been laid down by the Supreme Court that when a second charge-sheet is served, the enquiry cannot commence de novo. It all depends on the facts of each case. In the present case the second charge sheet was issued because the grievance of the petitioner was that the first charge sheet was vague. We see nothing illegal in issuance of a second charge sheet in these circumstances.

8. It must be appreciated that a decision must be understood in the context of the ratio which is laid down and it must not be read mechanically, as held by the Supreme Court in *Bharat Petroleum Ltd. v. N.R. Vairamani* AIR 2004 S.C. 4778 (vide paragraphs 9 to 12), and by this Court in *M.I. Hussain v. N. Singh* LPA No. 1650/2005 decided on 7th November, 2005. In our opinion there is no absolute legal bar to the commencement of the second enquiry de novo.

9. Thus, we are in full agreement with the judgment of the learned Single Judge.

10. The appeal is dismissed.