

(2013) 07 DEL CK 0502

In the Delhi High Court

Case No : Writ Petition (C) No. 4834 of 2013

R. Vasudevan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 31-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0502

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Arvind Varma and Ms. Deepika Shori, for the Appellant; Amrit Pal Singh, CGSC for Respondent No. 1 and Mr. R.V. Sinha, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.

C.M. No. 10961/2013 (exemption)

Exemption allowed subject to just exceptions.

C.M. stands disposed of.

W.P.(C) No. 4834/2013 and C.M. No. 10960/2013 (stay)

1. This writ petition is filed by the petitioner-R. Vasudevan seeking to quash the order of the Enquiry Officer whereby according to the petitioner the Enquiry Officer has refused to comply with the order of a Division Bench of this Court dated 23.5.2013 by not permitting the petitioner to file additional list of witnesses. Petitioner was a member of Company Law Board. On account of allegations against him with respect to various aspects including finding of cash in a CBI trap case, petitioner was proceeded against by initiating departmental proceedings.

2. An earlier writ petition was filed in this Court by the petitioner seeking various

reliefs as regards rights claimed in the enquiry proceedings and which was dismissed by this Court vide order dated 23.4.2013. Petitioner challenged this order in an LPA and the Division Bench of this Court allowed the LPA No. 356/2013 on 23.5.2013 by giving the following directions:-

xxxx xxxx xxxx xxxx

In the enquiry proceedings, an elementary principle of fair opportunity must be granted to the charge-sheeted officer so as to enable him to defend his case. In the absence of such fairness, the order dated 18.03.2013 cannot be sustained. To this extent, we accept the contention of the appellant and we are of the considered view that the appellant must be given one more opportunity to cross-examine the prosecution witnesses regarding CFSL report on the additional documents that were admittedly furnished to the appellant on 27.03.2013.

The next grievance of the appellant is that after the order dated 18.03.2013 was passed when it was brought to the notice of the Enquiry Officer, the appellant had also made a request to furnish the additional documents, namely, the certified copies of all the deposition in the trial court which was also declined by subsequent order dated 12.04.2013. On challenge to the said order, the learned Judge again did not accept the said challenge and rejected the contention of the appellant. On this issue also we have heard both the counsel for the appellant as well as for the respondent. The copies of the deposition in the trial court being an official record, there cannot be any objection for the Presenting Officer or for that matter to the Enquiry Officer to look into that. To that extent, the appellant should also be given an opportunity and accordingly the appellant is directed to produce the certified copies of the documents on the next adjourned date for consideration of the Enquiry Officer.

In view of the above, we direct the appellant as well as the Presenting Officer to approach the Enquiry Office on 29.05.2013 on which date the Enquiry Officer shall fix the date of enquiry proceedings at his convenience after hearing both the appellant as well as the Presenting Office. On the date fixed by the Enquiry Officer, the appellant shall without asking for any further adjournment cross-examine the prosecution witnesses as to the additional documents that were provided by the respondent. On that date the appellant shall also file the said certified copies of deposition before the trial court before the Enquiry Officer for his consideration. The date on which the enquiry proceedings are directed to be held by the Enquiry Officer shall be strictly adhered to by the appellant, the respondent as well as the Enquiry Officer.

The appeal and the pending applications are disposed of in the above terms.

Copy of the order be given dasti under the signatures of the Court Master.

3. What is argued before me on behalf of the petitioner is that although the Division Bench, in the emphasized portion of the aforesaid order, granted opportunity to the petitioner to cross-examine the prosecution witnesses

regarding the CFSL report on the additional documents which were furnished to the petitioner on 27.3.2013, in reality the appellant (petitioner herein) is also permitted, according to the petitioner, by the Division Bench to file additional list of witnesses with respect to the CFSL report and seek their examination by the department and thereafter cross-examination by the petitioner.

I do not think there is any ambiguity in the language of the order of Division Bench dated 23.5.2013 and the only entitlement of the appellant was that he was given one opportunity to cross-examine the prosecution witnesses regarding the CFSL report on the additional documents received by the petitioner on 27.3.2013. This was done because the petitioner claims that he wanted to cross-examine the prosecution witnesses with regard to CFSL report on the additional documents and which could not be done because the documents were received after the prosecution witnesses had already been examined. Therefore, to this limited extent, petitioner was given an opportunity to cross-examine the prosecution witnesses who deposed with respect to the CFSL report, and which cross-examination was limited only to the additional documents which the petitioner received on 27.3.2013.

4. In my opinion, therefore there is no freedom given by the Division Bench by the order dated 23.5.2013 that the petitioner can now ask the department to bring more prosecution witnesses who have not been examined by the department so that such witnesses can also be cross-examined by the petitioner with respect to the additional documents which the petitioner received on 27.3.2013. It is the department who decides which prosecution witnesses it wants to bring. The department brought certain witnesses and whose testimonies were recorded. The Division Bench only permitted cross-examination of these witnesses whose depositions were already recorded. The Division Bench did not permit cross-examination of those witnesses whose depositions were not already recorded. Division Bench in no manner permitted wholesale re-opening of evidence by the department, and that too by forcing on the department to call upon the witnesses so that first they should depose so that the petitioner thereafter can cross-examine them. This is unacceptable. Therefore, it is obvious that the petitioner in one way or the other wants to stall the proceedings which have been initiated against him with respect to very grave charges. Petitioner was occupying a judicial post. In view of the above, there is no merit in the writ petition and which is therefore dismissed with costs of Rs. 50,000/- inasmuch as it is clear that the petitioner is abusing the process of law and endeavouring to somehow or the other strangle the departmental proceedings. Costs can be recovered by respondent Nos. 1 and 3 (proportionately) or otherwise by the CVC in accordance with law.