

(2011) 10 KAR CK 0003

In the Karnataka High Court

Case No : Writ Petition No. 38015 of 2011 (S-RES)

Ramakanth Hebballi

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 24-10-2011

Acts Referred:

Citation : (2013) 2 KarLJ 592

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : V. Lakshminarayana, for the Appellant; Raghavendra G. Gayatri, High Court Government Pleader, Sri S.V. Narasimhan, for the Respondent

Final Decision : Dismissed

Judgement

A.N. Venugopala Gowda, J.—The petitioner-a General Manager in the Mysore Sales International Limited ("Company" for short), an undertaking of the Government of Karnataka, has filed this petition to quash a charge-sheet, as at Annexure-A, issued by the Managing Director of the Company. Committee on Public Undertakings of the Karnataka Legislature (for short, the "Committee") conducted an enquiry and having found several acts of omissions and commissions attributable to the "then Managing Director" and "other Officers" resulting in the Company suffering huge loss, submitted its report to the Presiding Officers of both the Houses of the Karnataka Legislature on 28-9-2010. The report was laid on the table of both the Houses of the Legislature on 11-1-2011. The Committee made recommendations for stringent and immediate action being taken against the then Managing Director, the petitioner and a few other officials. Government of Karnataka by an order dated 9-8-2010, accorded sanction to Lokayukta, u/s 7(2-A) of the Karnataka Lokayukta Act, 1984 to investigate into the reported irregularities committed by the Management of the Company in the matter of Iron Ore Export to China vide Contract No. MF 0952, dated 12-11-2009 and fix responsibility for the lapses. Board of Directors of the Company passed a resolution dated 30-6-2011, requesting Lokayukta to

investigate into the matter. Principal Secretary. Department of Commerce and Industries, Government of Karnataka, by a letter dated 16-10-2010, made a reference in the matter of Iron Ore transactions of MSIL, to Sri Kukkaje Ramakrishna Bhat, District and Sessions Judge (Retd.), to hold preliminary enquiry into the matter. A preliminary enquiry report dated 23-3-2011 was submitted by Sri K. Ramakrishna Bhat.

2. One Mr. Shivaraam, an IAS Officer, was the Managing Director of the Company at the relevant point of time. Mr. Shivaraam having been transferred, has ceased to be Managing Director of MSIL. Mr. Rajeev Chawla, IAS, subsequently posted as the Managing Director, having examined the matters relating to Contract No. MF 0952, dated 12-11-2009 of the Company with M/s. Fremery Holdings Limited, for supply of 50,000 MTs of exporting Iron Ore fines to China and release of advance to M/s. Mallappa Mineral Industries and M/s. Saram Exports, Goa and the demurrage claim of Rs. 2.66 Crores by a foreign buyer, having prima facie noticed lack of integrity and devotion to duty on the part of the petitioner, pending institution of disciplinary proceedings, in exercise of power conferred under Rule 8 of the Conduct and Discipline Code applicable to Officers and Executives of the Company (for short, "the Code"), by an order bearing No. MD/28/2011-12, placed the petitioner under suspension on 1-7-2011. The said order was questioned in W.P. No. 25589 of 2011.

3. Mr. Rajeev Chawla, having been transferred and Mr. K.S. Prabhakara, IAS, having been posted as the Managing Director of the Company, by a communication bearing No. MD/109/2011-12, dated 23-9-2011, proposed to hold a departmental enquiry under the provisions of the Code against the petitioner. Articles of Charge with statement of imputation of misconduct along with list of documents by which and a list of witnesses by whom the Articles of Charge was proposed to be sustained was served on the petitioner. It has been alleged therein that, the petitioner while discharging duty in the Company as General Manager (F and A), during the period from 21-10-2009 to 22-6-2010, exhibited lack of integrity, devotion to duty and conducted in a manner unbecoming of a responsible employee of the Company. The lapses, irregularities, omissions and commissions alleged against the petitioner are the following.--

(i) You have failed to advice the Managing Director with respect to his financial powers delegated by the Board relating to payment of advance to the suppliers as detailed in Annexure-II.

(ii) Contrary to the established norms, you have paid a total advance of Rs. 6.65 Crores to the suppliers viz., M/s. Mallappa Minerals Industries Limited, (hereinafter referred to as "MMI") (Rs. 2.15 Crores) and to M/s. Saram Export, Goa (Rs. 4.50 Crores) without properly securing the interest of the company.

(iii) You have failed to adhere to the internal control procedures relating to iron ore export, exhibited lack of corporate governance and violated the law relating

to paying advance to M/s. MMI and M/s. Saram Export, Goa to the tune of Rs. 6.65 Crores as reported by M/s. Hiremath and Company. Internal Auditors (Head Officer-"Pre Auditors") in their letter dated 22-2-2010.

(iv) The company has paid an advance of Rs. 2.15 Crores to Mr. Malthesh of MMI vide Agreement dated 17-12-2009 which was executed by you on the stamp paper dated 20-4-2009 which had become invalid due to efflux of time which is contrary to the Sales and Purchase Agreement dated 13-11-2009.

(v) Though communication was sent to MMI on 16-2-2010 under copy to you, you have failed to initiate legal action against the MMI under the Negotiable Instruments Act, 1881 though. MMI was requested to repay the amount on account of non-performance of the terms and conditions of the contract entered with MSIL on 13-11-2009.

(vi) By your act of exhibiting lack of devotion to duty, you have accepted the ship APJ KAIS by sending an e-mail to them and further confirmed vide letter dated 5-12-2009 without ensuring due diligence, readiness and confirming the availability of iron ore at the loading port, which resulted in avoidable demurrages to the tune of Rs. 2.65 Crores and excise duty to the tune of Rs. 32.33 Lakhs to the MSIL for which you are liable to make good the amount of demurrage sustained by the MSIL.

(vii) After knowing the Allahabad Bank's non co-operation with M/s. MMI for entertaining local L.C. and in disregard to Vijaya Bank's Dun and Bradstreet India Business Information Report (D and B Report), you have failed to exercise due diligence in the paramount interest of the Company. Your non-adherence of established norms has resulted in the entire present episode which affected name, reputation and goodwill of the company.

(viii) Under the established norms, the realization of the export proceeds was the responsibility of MMTC and also abstinence of letter of credit by the Company from 1st Class Prime Western Bank. Your non-adherence of established norms referred to has resulted in huge financial loss to the Company to the tune of US \$ 1288000/-.

(ix) You have failed to obtain the approval of the Competent Authority before issue of an authority letter to M/s. Saram Exports, Goa, dated 4-1-2010. Your inaction has facilitated them to appoint different analysing agency contrary to the original agreement.

(x) Your request to the Banker without the authority for cancellation of LC and returning of all the original documents connected with export including Bills of Lading to the Foreign Buyer, facilitated for re-sale of the material, jeopardizing Company's interest and causing further loss to the MSIL.

(xi) You have failed to ensure compliance of routing the files as detailed in the Annexure-II through pre-auditors, who are qualified Chartered Accountants before releasing any payment, thereby displaying lack of devotion to duty.

(xii) You have tampered the note sheet of the Company's files as detailed in Annexure-II to cover up your mis-deeds.

(xiii) Your action/inaction has resulted in total loss of Rs. 16.40 crores to the company on transaction of export of Iron Ore to China. You are responsible to all the consequence and further claims against the company.

4. Statement of objections was filed on behalf of the company in justification of the charge-sheet issued to the petitioner.

5. Sri V. Lakshminarayana, learned Counsel appearing for the petitioner, firstly contended that the entire transaction pertaining to the payment of advance amount to the suppliers i.e., M/s. Mallappa Mineral Industries Limited and M/s. Saram Exports, Goa, had transpired pursuant to approval, ratification and order passed by the Managing Director of the Company and the petitioner has no say or role in the matter. Secondly, a resolution dated 30-6-2011 was passed by the Board of Directors requesting Lokayukta to investigate into the matter and without final report being received, an order of suspension was arbitrarily and whimsically passed against the petitioner on 1-7-2011, which having been challenged in W.P. No. 25589 of 2011, a charge-sheet dated 23-9-2011, as at Annexure-A, has been hurriedly issued to sustain the said illegal order of suspension. Thirdly, Managing Director of the Company being primarily and solely responsible in respect of the matters which have been noticed by the Committee and in respect of which, Lokayukta has been requested to investigate, the petitioner being subordinate to the Managing Director, carried out the orders passed by the Managing Director and hence the Managing Director of the Company is disqualified to act as the Disciplinary Authority since the Managing Director has to be subjected to disciplinary action as per the findings and recommendation made by the Committee. Learned Counsel submitted that, if any proceedings are called for, the Competent Authority to take disciplinary action and proceed against the Managing Director being the State Government, the departmental proceedings, if any, can be by way of "joint proceedings" only. Hence, the charge-sheet issued to the petitioner is wholly arbitrary and illegal. He placed reliance on the decision in the case of C.S. Krishna Murthy v. State of Karnataka and Others 1983 (2) Kar. L.J. 151 : ILR 1983 Kar. 347. By placing reliance on the decision in the case of State of Uttar Pradesh and Others v. Raj Pal Singh (2010) 5 SCC 783 : (2010) 2 SCC (L and S) 107, learned Counsel further contended that the charges against the Managing Director, the petitioner and other officials being in relation to same matter, it is not permissible to deal with the persons differently, such approach being discriminatory. Learned Counsel concluded by submitting that the impugned charge-sheet being invalid, may be quashed.

6. Sri S.V. Narasimhan, learned Counsel appearing for the 2nd respondent, by referring to the statement of objections and placing reliance on a decision in the case of Union of India (UOI) and Another Vs. Kunisetty Satyanarayana, contended that the writ petition is premature and is also not maintainable, since

mere issuance of a charge-sheet does not give rise to any cause of action, as it does not amount to an adverse order affecting the rights of the charge-sheeted employee. By inviting the attention of the Court to the Service Rules of the company, learned Counsel contended that the Managing Director is the Disciplinary Authority vested with the power to inquire into the truth of any imputation of misconduct or misbehavior by an employee of the Company and also to impose the penalties. Learned Counsel pointed that the impugned charge-sheet has not been issued by Mr. Shivaram, the former Managing Director, whose actions have also been found fault with by the Committee in its report, but has been issued by a person subsequently posted as the Managing Director of the Company. Learned Counsel submitted that the Managing Director who has issued the impugned charge-sheet did not function as the Managing Director of the Company during the relevant period i.e., 21-10-2009 to 22-6-2010. Learned Counsel submitted that the truth of the allegations made against the petitioner in the charge-sheet can be known after the enquiry is held and the findings/report is submitted by the Enquiry Officer, before whom the petitioner will have reasonable opportunity of hearing. Learned Counsel submitted that there is neither any arbitrariness nor any illegality in issuing the charge-sheet Annexure-A, based on the materials in possession of the Company.

7. Sri Raghavendra G. Gayatri, learned HCGP appearing for the 1st respondent contended that the petitioner is an employee of MSIL, which was Conduct and Disciplinary Code, in terms of which the Managing Director being the Disciplinary Authority issued the charge-sheet to the petitioner. Former Managing Director, the Special Officer (Export) of the Company, against whom the Committee has made recommendations and sanction was accorded to institute Lokayukta enquiry into the reported acts of misconduct by the Management of MSIL in the matter of Iron Ore Export to China vide Contract No. 0952, dated 12-11-2009 and fix responsibility for the lapses, will be dealt by the Government in accordance with law since necessary action has been initiated and would be finalised soon. He submitted that the charges against the petitioner and the others in the Management of MSIL being not identical, there cannot be any objection with regard to separate charge-sheets being issued to the delinquent officials and that the petitioner cannot claim as a matter of right that "joint enquiry" should be held in the matter. He further submitted that, the Appointing/Disciplinary Authority to the petitioner being the Managing Director of the Company, who being not competent to initiate disciplinary action against the former Managing Director, and the former Special Officer (Export), is justified in issuing the charge-sheet to the petitioner, against whom, indisputedly, the Committee has made recommendation to take immediate disciplinary action apart from the findings in the preliminary enquiry report dated 23-3-2011.

8. I have carefully considered the rival contentions and perused the record of the writ petition. The point for consideration is:

Whether the charge-sheet, as at Annexure-A; issued by the Managing Director of

the Company is invalid?

9. MSIL has Conduct and Disciplinary Code, which applies to all the employees of the Company, "Disciplinary Authority", appearing therein, means, "Managing Director of the Company". Rule 12(A) which provides the procedure for imposing major penalties reads as follows.--

(1) No order imposing any of the penalties specified in clauses (v) and (vi) of Rule 11 shall be made except after an enquiry held, as far as may be, in the manner provided in this rule and Rule 13.

(2) Whenever the Disciplinary Authority is of the opinion that there are grounds for enquiring into the truth of any imputation of misconduct or misbehavior against an employee, it may itself enquire into or appoint any person under this Rule as an Authority to enquire into the truth thereof.

(3) Where it is proposed to hold an enquiry, a charge-sheet may be issued against the employee. He shall be required to submit within such time as may be specified by the Disciplinary Authority (not exceeding 15 days), a written statement whether he admits or denies the charge.

(4) On receipt of the written statement of the employee, or if no such statement is received within the time specified, an enquiry may be held by the Disciplinary Authority itself or by any one appointed as Enquiring Authority:

Provided that it may not be necessary to hold an enquiry in respect of the charges admitted by the employee in his written statement. The Disciplinary Authority shall however record its findings on each such charge after taking such evidence it may think fit.

Rule 12(C), which makes provision for holding "joint enquiry", reads as under:

Where two or more employees are concerned in any case, the Authority Competent to impose the penalty of dismissal from service on all such employees, make an order directing that disciplinary action against all of them may be taken in a common proceedings:

Provided that if the Authority Competent to impose the penalty of dismissal on such employees are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.

Rule 17, which makes provision for suspension or disciplinary proceeding against an employee, who is on deputation to the Company, reads as under:

(a) Where an order of suspension is made or Disciplinary Proceeding is taken against an employee, who is on deputation to the Company from the Central or State Government, or another public undertaking, or a Local Authority, the Authority lending his services (hereinafter referred to as the "Lending Authority") shall forthwith be informed of the circumstances leading to the order of his

suspension, or the commencement of the Disciplinary Proceedings, as the case may be.

(b) In the light of the findings in the Disciplinary Proceedings taken against the employee.--

(i) If the Disciplinary Authority is of the opinion that any of the penalties should be imposed on him, it may pass such orders on the case, as it deems necessary after consultation with the Lending Authority, provided that, in the event of a difference of opinion between the Disciplinary Authority and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority.

(ii) If the Disciplinary Authority is of the opinion that any of the penalties should be imposed on him, it should replace his services at the disposal of the Lending Authority and transmit to it the Proceedings of the Enquiry for such action as it deems necessary.

Rule 20, which makes provision for "Appeals", reads as under:

An employee may appeal against an order imposing upon him any of the penalties specified in Rule 11:

i. The appeal shall lie to the Managing Director in respect of any of the penalties imposed by an authority subordinate to the Managing Director. The appeal in respect of any of the penalties imposed by the Managing Director shall lie to the Board of the Company.

ii. Appeal against an order in common proceedings (joint enquiry) held under Rule 12(C) shall lie to the Authority functioning as the Disciplinary Authority for the purpose of that proceeding is immediately subordinate.

10. Sri Lakshminarayana by pointing out that the Managing Director of the Company being not competent to impose any penalty on the former Managing Director and/or the then Special Officer of the Company, the allegation being in respect of the contract dated 12-11-2009, the order for taking disciplinary action by a common proceeding has to be made by the State Government, which being the highest of the Authorities, can impose the penalty, if any, on all the delinquent officials. According to the learned Counsel, the change of Managing Director has no relevance since it is the office which matters and not the person. Learned Counsel did not dispute the fact that the relevant point of time, Mr. Shivaraam was the Managing Director and has ceased to be the Managing Director of MSIL. The charge-sheet, as at Annexure-A, has not been issued by Mr. Shivaraam but by Mr. K.S. Prabhakara, Present Managing Director who did not had any role in the matters relating to the Contract No. MF 0952, dated 12-11-2009.

11. Petitioner is employed as General Manager. His Appointing Authority is the Managing Director. In terms of the provisions of the Code, noticed supra,

Managing Director is the Disciplinary Authority. Managing Director against whom there are no allegations in respect of the matters in question has issued the charge-sheet, as at Annexure-A.

12. The "Code of the Company" has empowered the Managing Director to issue charge-sheet and order departmental proceedings against the employees of the company. In exercise of the power conferred by the Code, Managing Director issued the impugned charge-sheet to the petitioner. Even according to the petitioner, the Committee has made observations and recommendations against Sri Shivaraam, the former Managing Director and not against the present Managing Director who issued the charge-sheet and who was not a party to any of the matters concerning the Contract No. MF 0952, dated 12-11-2009. Thus, the present Managing Director is not disqualified from initiation of disciplinary action by issue of charge-sheet against the petitioner. Had the charge-sheet in question been issued by Mr. Shivaraam, the former Managing Director, the contention of Mr. Lakshminarayana would have found acceptance.

13. In the case of State of Madhya Pradesh and Others Vs. Shardul Singh, the material facts are: a Sub-Inspector of Police was appointed by an Inspector General of Police. A departmental enquiry was initiated against the Sub-Inspector of Police by a Superintendent of Police, who after holding an enquiry sent the report to the IGP, who in turn, dismissed the Sub-Inspector of Police from service. The order of dismissal was challenged in the High Court on the ground that the enquiry held by the Superintendent of Police was against the mandate of Article 311(1) of the Constitution of India, as Superintendent of Police was incompetent to conduct the enquiry, found merit and the petition was allowed. The State preferred an appeal in the Supreme Court. While rejecting the contention of the employee that, guarantee given under Article 311(1) includes within itself a further guarantee that the disciplinary proceedings resulting in dismissal or removal of a civil servant should be initiated or conducted by the authorities mentioned in that Article, it has been held as follows.--

This article does not in terms require that the authority empowered under that provision to dismiss or remove an official, should itself initiate or conduct the enquiry preceding the dismissal or removal of the officer or even that that enquiry should be done at its instance. The only right guaranteed to a civil servant under that provision is that he shall not be dismissed or removed by an authority subordinate to that by which he was appointed.

14. In the case of P.V. Srinivasa Sastry and others Vs. Comptroller and Auditor General and others, while examining the matter in the context of Article 311(1) of the Constitution, it has been held by the Apex Court that, in the absence of any rule, any superior authority who can be held to be the Controlling Authority, can initiate a departmental proceeding and initiation of departmental proceeding per se does not visit the officer concerned with any evil consequences.

15. In the case of Transport Commissioner, Madras-5 Vs. A. Radha Krishna

Moorthy, Apex Court has held that, initiation of disciplinary enquiry can be by an officer subordinate to the Appointing Authority.

16. In the case of Inspector General of Police and another Vs. Thavasiappan, it has been held by the Apex Court that, generally speaking, it is not necessary that charges should be framed by the authority competent to award the proposed penalty or that the enquiry should be conducted by such an authority. It has also been held that, an act of instituting a disciplinary proceeding is quite different from conducting an enquiry.

17. With regard to initiation of disciplinary proceedings, the legal position is well-settled that, it is not necessary that the Authority competent to impose the penalty must alone initiate the disciplinary proceedings and that the proceedings can be initiated by any superior Authority, who can be held to be the Controlling Authority who may be an Officer subordinate to the Appointing Authority. Indisputedly, the Managing Director is the Chief Executive Officer and all other employees in the Company including the petitioner, are under his control.

18. The contention with regard to holding of joint enquiry is concerned, the then Managing Director and the former Special Officer (Export), are not the employees of the Company. Concededly, the Company cannot initiate any disciplinary action against them. Hence no exception can be taken for the Company not including disciplinary action against them. However, the company has requested the Government to take appropriate action against the said two officers. Issuance of charge-sheet, holding of enquiry and imposition of penalty are not one and the same. Act of instituting disciplinary proceeding by issuing charge-sheet and conducting enquiry need not be by the appointing authority alone. Such an act can be done by a Superior Authority/Controlling Authority. However, punishment can be imposed only by Disciplinary Authority. Hence, the challenge to the impugned charge-sheet is devoid of merit. There cannot be any objections for issuing separate charge-sheets, if two or more employees are involved in a case, since the charge may differ from one employee to another employee, depending upon the kind of role the employee/s had played in the matter.

19. The provision in Rule 12(C) of the Code, makes it clear that, the Authority Competent to impose the penalty of dismissal from service where two or more employees are concerned in a case, may make an order directing that disciplinary action against all of them being taken in a "common proceeding". Indisputedly, in the instant case, Managing Director is not competent to impose any penalty of dismissal from service on the then Managing Director and the then Special Officer (Export). Managing Director of the Company being not empowered to direct any disciplinary action against the then Managing Director and the then Special Officer (Export), the claim of the petitioner for holding joint enquiry is untenable.

20. In the case of C.S. Krishna Murthy, the material facts were, a departmental

enquiry was instituted against the petitioner who was a Sub-Inspector of Police and another Head Constable, by an order made by the Superintendent of Police, by appointing Deputy Superintendent of Police as the enquiring authority, who having conducted the enquiry, found the petitioner guilty and the Deputy Inspector General of Police confirmed the findings on the charges and imposed punishment of reduction in rank, i.e., to the rank of Assistant Sub-Inspector of Police for a period of five years which, on an appeal being preferred, was modified to a period of one year and in revision, to one of reduction by one increment in the rank of Sub-Inspector of Police, for a period of one year. The said orders were questioned in a writ petition. Main contention considered was "Whether the Superintendent of Police could have instituted joint enquiry against the petitioner and another Head Constable in the backdrop of Rule 8 of the Karnataka State Police (Disciplinary Proceedings) Rules, 1965, which provided for a joint enquiry...". After examining the contention along with Rule 433(5) of the Karnataka Police Manual, which provided for "joint Inquiry", it was held that the expression "Disciplinary Authority" used in Rule 433(5), must be given a meaning which does not come into conflict with Rule 8 of the 1965 Rules and therefore the expression "disciplinary authority" made in Rule 433(5) and Rule (8) means the disciplinary authority in so far as it relates to the initiation of joint enquiry is the authority which has the power to impose penalty is the authority which has the power to impose penalty of dismissal on such police officers. In my opinion, the said decision has no application for answering the point which has arisen for consideration.

21. In case, any other Company employee/s is/are subjected to disciplinary action in respect of the same matter by issuing charge-sheet/s, there can be consolidation of proceedings even at a later stage. By the mere issue of a charge-sheet, the petitioner has not suffered any prejudice. It is only after the departmental enquiry is conducted, punishment if imposed and if the petitioner suffers any prejudice for not holding a "joint enquiry" in the matter, the petitioner may get a cause of action to question the order of punishment.

22. In the case of Raj Pal Singh, the respondent who was an Assistant Wardner, along with four other Assistant Wardners had beaten a person which was proved in departmental proceedings and the Disciplinary Authority passed an order of dismissal on the respondent, though he passed the order of stoppage of increments in respect of others, which order having been assailed, it was held by the High Court that the charges and the delinquency being same and identical and all the employees having been served with a set of charges out of same incident, there was no justifiable reasons to pass different orders of punishment and consequently, the order of dismissal was set aside and stoppage of increments was directed, as was the order in the case of other charged officials. The said order when questioned in the Apex Court, noticing that the State is not able to indicate any difference in the delinquency of the employees, while observing that it is undoubtedly open to the Disciplinary Authority to deal with the delinquency and once the charges are established, to award appropriate

punishment, the Apex Court also observed that, when the charges are same and identical in relation to one and the same incident then to deal with the delinquency of the officials and awarding different punishments would be discriminatory. In my opinion, the ratio of the decision, at this stage of the case has no application. Whether the charge against other officials of the Company in respect of the matter is same or not, at present, can be only a matter of speculation since disciplinary action by issuing charge-sheet/s to others named in the report of the Committee and the preliminary enquiry report of Sri K. Ramakrishna Bhat has not been initiated.

23. In the case of Kunisetty Satyanarayana, a charge memo issued by the Disciplinary Authority, instead of being replied was questioned by the employee, which was allowed by the High Court and when the employer questioned the order in appeal, the Apex Court, by observing that, the settled legal position being that, ordinarily no writ lies against a charge-sheet or show-cause notice, has held as follows.--

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well-settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

24. In the instant case, the charge-sheet has been issued by an authority who has been vested with the power by the Company. At present, the Company has not instituted disciplinary action in the matters relating to the Contract No. MF 0952, dated 12-11-2009 against any other employee of the Company. Even the Government has not yet instituted disciplinary action against its employees who were posted by it in the Company. Unless the company institutes disciplinary action against its other employees, if any, in respect of the matters relating to the said contract, there is no scope for ordering joint enquiry by the Competent Authority of the Company. Hence, the alternate contention with regard to the need for holding joint enquiry has no merit. It is for the Disciplinary Authority to first find out the truth of the charges levelled against the petitioner and proceed further in the matter. At this stage, it is inappropriate to record any finding on

the correctness or truth of the charges levelled against the petitioner, since any finding may prejudice the case of either of the parties.

In the result, the writ petition is devoid of merit and is dismissed, with no orders as to costs, by making it clear that, the findings recorded herein being limited for consideration on the point noticed supra, should not be construed as opinion of expression on the merit of the charges levelled against the petitioner.