
(2016) 05 BOM CK 0029
In the Bombay High Court
Case No : Writ Petition No. 11563 of 2015

Shubhendra K. Bhandarkar	Vs	APPELLANT
Central Bank Of India & Another		RESPONDENT

Date of Decision : 04-05-2016

Acts Referred:

Citation : (2016) 2 CLR 586 : (2016) 150 FLR 617 : (2016) LabLR 947 : (2016) LabLR 694

Hon'ble Judges : Anoop V. Mohta and A.A. Sayed, JJ.

Bench : Division Bench

Advocate : Mr.Sanjay Singhvi, Senior Advocate, a/w Mr. Bhavesh Parmar, i/b Mr. Devmani J. Shukla, Advocate, for the Appellant; Mr. Loncy D'Souza, a/w Ms. Deepika Agrawal, i/b Mr. V.M. Parkar, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard forthwith by consent of parties.
 2. The Petitioners have challenged the respective Charge Sheets with prayer to declare the same as illegal and bad in law.
 3. The learned Counsel appearing for Respondents has raised preliminary objection to maintainability of the present Writ Petition against the Charge Sheet and also Show Cause Notice, by referring the Judgments of Supreme Court in Union of India and v. Upendra Singh, 1994 DGLS(Soft.)240 and Union of India & Anr. v. Kunisetty Satyanarayana, AIR 2007 SC 906(1).
 4. Paragraphs 14 and 16 of the Supreme Court Judgment in Union of India & Anr. v. Kunisetty Satyanarayana (supra) is reproduced hereunder :
- "14.The reason why ordinarily a writ petition should not be entertained against a mere show-cause 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 any one. 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."

"16.No doubt, in some very rare and exceptional case the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

(emphasis supplied.)

5. Therefore, in the present case we have to consider any exceptional or any special case is made out whereby the High Court under Article 226 of the Constitution of India needs to interfere with the action of issuance of Charge Sheet.

6. After going through the Charge Sheet as well as Rules referred to by the learned Counsel appearing for the Respondent in respect of disciplinary action procedure, we are of the view that this is not the case which can be stated to be very rare and exceptional whereby interference is called for, at the stage of issuance of Charge Sheet itself.

7. The Petitioners to file Reply to the Show Cause Notice in respect of the Charge Sheet by giving explanation/justification, if any, and Respondents to consider the same in accordance with law.

8. The Writ Petition is accordingly dismissed.

9. All points and contentions are kept open.

10. The interim protective order dated 1st April 2015 so passed, whereby this Court has permitted the enquiry to go on and directed that final order be not passed, shall continue to operate for a period of 10 weeks from today.