
(2002) 08 KAR CK 0016
In the Karnataka High Court
Case No : Writ Appeal No. 1998 of 1999

Steel Authority of India Limited and Another	APPELLANT
Vs	
S.K. Somanath	RESPONDENT

Date of Decision : 14-08-2002

Acts Referred:

Constitution of India, 1950 — Article 311 (2)

Citation : (2002) ILR (Kar) 4546 : (2003) 2 KarLJ 518 : (2002) 4 KCCR 2243 : (2003) 1 LLJ 1108

Hon'ble Judges : Kumar Rajaratnam, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : B.C. Prabhakar, for the Appellant; A.G. Holla, for P.D. Vishwanath, for the Respondent

Final Decision : Dismissed

Judgement

Kumar Rajaratnam, J.—The appellant in this appeal has challenged the validity and correctness of the order dated 18-9-1998 passed by the learned Single Judge in Writ Petition No. 2237 of 1992.

2. The facts very briefly are that the respondent was working as an Assistant Sales Manager in Visvesvaraya Iron and Steel Limited, Madras Branch and was later posted at Branch Office, Madras, as Branch Manager.

3. Three domestic enquiries were conducted against the respondent for certain serious acts of misconducts, such as misappropriation and acts of indiscipline. The respondent was kept under suspension with effect from 23-12-1981 and later dismissed from service from 25-9-1982. The respondent filed an appeal which was dismissed by the Appellate Authority.

4. As stated there were three domestic enquiries. Enquiry Nos. 1771 of 1981, 20 and 106 of 1982.

5. Enquiry No. 1771 of 1981 related to the period when the respondent was

working as Branch Manager at Madras during 1980-81. The respondent is alleged to have committed certain irregularities with regard to the appointment of security guards and with respect to payment of their salaries.

6. Enquiry No. 20 of 1982 related to the period when the respondent was working as Assistant Sales Manager, Madras and he had during that period alleged to have committed certain acts of misappropriation.

7. Enquiry No. 106 of 1982 related to-

(1) Bogus claim of taxi hire of Rs. 8,457.40;

(2) False claim of house rent;

(3) Misappropriation to the tune of Rs. 30,905/- by submitting bogus invoices and receipts;

(4) False claim amounting to Rs. 4,105/-;

(5) Manipulation of accounts by covering of temporary misappropriation of company's funds.

8. Detailed enquiries were held giving an opportunity to the delinquent officer to defend himself and to cross-examine management witnesses. The Enquiry Officer had concluded that all the charges were proved except one minor charge in Enquiry No. 106 of 1982.

9. The enquiry reports were considered by the Chief Sales Manager, who was the Disciplinary Authority under the rules as well as the Managing Director, who was the Punishing Authority for imposing major punishments under the rules. The Managing Director passed the order of dismissing the respondent on 23-9-1982. The order of dismissal was communicated to the respondent on 25-9-1982 which was challenged earlier by the respondent in Writ Petition No. 39890 of 1982.

10. Writ Petition No. 39890 of 1982 was disposed of by this Court directing the respondent to file an appeal before the Appellate Authority. The Appellate Authority passed an order on 16-11-1991 dismissing the appeal.

11. Ultimately, the employee, respondent, challenged the order of dismissal after exhausting the appeal remedy before the learned Single Judge. The learned Single Judge allowed the writ petition. That is how the management is before us.

12. The operative portion of the learned Single Judge's order reads as follows.-

"25. The last question required to be considered by this Court is, having come to the conclusion that impugned orders are not sustainable in law as to what are the reliefs that have to be granted in this case. Having regard to the serious nature of charges made against the petitioner, as the enquiry is vitiated insofar as the first Enquiry No. 1771 of 1981 is concerned the company can prove the charges insofar as these charges are concerned, the respondents are at liberty to conduct de novo enquiry in respect of the charges of the first enquiry. Insofar as

the findings of other enquiries are concerned, the respondents can take action against the petitioner strictly following the Rules 46(xviii), (xix) and (xx) and 43-B of the Service Rules.

26. For the reasons recorded above, the impugned orders are liable to be quashed. With regard to grant of back wages, an affidavit is filed by the company stating that petitioner was in employment after the order of dismissal was passed and he was paid salary as mentioned in the said affidavit. In the reply affidavit filed on 10-9-1998 along with documents (Annexure-E and F) at paragraph 2 of the reply affidavit, the petitioner has given the particulars regarding his employment after the order of dismissal was passed. Now, if the order of dismissal and the order passed in the appeal are quashed, normal rule of awarding of back salary must follow but, in the instant case, having regard to the facts that the petitioner was in employment for the period mentioned in the reply affidavit by the petitioner, though he was not in public employment, the salary earned by him for that period must be deducted and further the period of unemployment must also be taken into consideration by the Court. The salary which would have earned by the petitioner, if he were to be allowed to continue in service in the respondent-company, the salary earned by him in his employment as mentioned in reply affidavit has been taken into consideration for granting the relief with regard to the back salary and accordingly the relief is granted. Having regard to the serious nature of charges made against the petitioner, this is not a fit case for awarding full back salary and for the reason that he was employed, for the period mentioned in his reply affidavit referred to above, I pass suitable order with regard to back salary by not awarding full salary, a portion of back salary is awarded. Hence, I pass the following order:

The writ petition is allowed. Rule made absolute. The impugned order Annexure-D and C are hereby quashed with liberty to the respondent-company to conduct de novo enquiry insofar as the charges pertaining to the first Enquiry No. 1771 of 1981 is concerned, if it desired to do so. The first respondent-company is directed to strictly follow sender rules and law laid down in this regard. The petitioner is awarded back salary of 50% excluding the salary earned by him when the petitioner was in employment. The salary shall be paid to the petitioner before taking further action if respondents intend to take action in accordance with the service rules. If the respondent-company does not wish to avail the liberty given to it in this order, then this order must be complied with within three months from the date of receipt of this order".

13. To summarise the operative portion of the learned Single Judge's order, the learned Single Judge held that the first enquiry viz., Enquiry No. 1771 of 1981 was bad in law and set aside enquiry and liberty was granted to the management to conduct a de novo enquiry. With respect to Enquiry Nos. 20 and 106 of 1982 the learned Single Judge set aside the order of the Disciplinary Authority since it was not a speaking order and directed the Punishing Authority to reconsider the matter, if they so desire. The learned Single Judge also directed 50% of the back

wages to be paid from the date of dismissal.

14. It may not be necessary to deal with the allegations against the delinquent since it is common ground as can be seen from the charge-sheet that the said allegations are of a serious nature and involves acts of misappropriation. The learned Single Judge has also concluded that the charges were of a serious nature.

15. We shall confine ourselves to the legal submissions and determine whether the learned Single Judge was legally correct in quashing the proceedings in the domestic enquiry.

(1) The first enquiry viz., Enquiry No. 1771 of 1981 the learned Single Judge quashed the entire proceedings on the ground that the preliminary enquiry conducted by the management was done behind the back of the petitioner.

(2) No time was granted to the delinquent for cross-examination.

16. With respect to Enquiry Nos. 20 and 106 of 1982 the learned Single Judge upheld the domestic enquiry holding that the enquiry was in accordance with the regulations but set aside the order of the Punishing Authority since it was not a speaking order.

17. The correctness of the reasoning of the learned Single Judge on these grounds have been assailed by the management.

18. We shall confine ourselves only to these procedural aspects of the three enquiries and determine whether the three enquiries were conducted in accordance with the regulations and in accordance with the principles of natural justice and whether there was any prejudice caused to the respondent in the procedure that was followed by the management.

19. The learned Single Judge held that non-furnishing of the preliminary enquiry report in advance vitiates the enquiry and further held that M.W. 1 was examined on 23-1-1982 and on the same day the petitioner was asked to cross-examine M.W. 1. The learned Single Judge relying on *Kesoram Cotton Mills Limited v. Gangadhar and Ors.*, held that the delinquent should have been given at least two days advance notice. The preliminary enquiry was conducted by the Madras office and was marked as Ex. M. 1.

20. Ex. M. 1 was obviously given to the delinquent on 22-1-1982 and the cross-examination of M.W. 1 was on 23-1-1982.

21. From the perusal of the questions in the cross-examination it is clear that the respondent-employee was fully aware of the contents of the preliminary enquiry report. The very first question that was put to M.W. 1 by the delinquent officer reads as follows:-

"You have pointed in your report that I have not maintained proper register, is there any system and procedure laid down by the management to maintain

particular type of attendance register substitutes who are working in shifts?"

22. Question Nos. 4, 5 and 12 clearly indicate that the delinquent officer was fully conversant with the preliminary enquiry report and has extensively cross-examined M.W. 1 on the preliminary enquiry report, Ex. M. 1. Almost every question directed against M.W. 1 was with respect to the preliminary enquiry report. The respondent never asked for time.

23. We have carefully perused the evidence of M.W. 1 and we are convinced that the respondent was fully aware of the contents of Ex. M. 1. We do not find that any prejudice was caused to the respondent. The respondent is a graduate and holding a responsible position as Assistant Sales Manager. He did not request time for cross-examination. When the case was posted on the next day i.e., on 23-1-1982 he was fully prepared to cross-examine M.W. 1.

24. The learned Single Judge took upon himself to adjudicate this matter when this point was not made in the writ petition. The learned Single Judge at paragraph 17 of his order pronounced as follows.-

"Though the ground that enquiry was not conducted properly is not specifically urged in the writ petition but at the time of advancing arguments by the learned Counsel for the petitioner he has urged this legal ground, since it is a legal ground the same was permitted to be urged by the learned Counsel for the petitioner and the same is considered by this Court in the interest of justice. Therefore, this Court has to record a finding on this issue. The order of dismissal was not preceded by a valid enquiry with regard to only one enquiry in No. 1771 of 1981, only to that extent prejudice has been caused to the petitioner in conducting the enquiry and recording the finding against him".

(emphasis supplied)

25. When this ground was not urged in the writ petition before the learned Single Judge, taking into account the status of the delinquent being a graduate and a responsible senior officer, it cannot be said that the supply of the preliminary enquiry report only one day before cross-examination has caused prejudice to the delinquent officer. The delinquent officer had not asked for time and had cross-examined M.W. 1 with respect to this very preliminary enquiry as can be seen by question Nos. 1, 4, 5, 6 and 12 posed to the M.W. 1. He has perfectly understood the contents of the preliminary enquiry report. Otherwise, it would not have been possible for him to extensively cross-examine M.W. 1 on the basis of the preliminary enquiry report.

26. We have no hesitation in concluding that on the facts placed before us the learned Single Judge was in error in holding that there was prejudice to the respondent in furnishing the preliminary enquiry report belatedly. This point was never urged before the Enquiry Officer or before the learned Single Judge in the grounds in the writ petition.

27. In this context we would like to remind ourselves of the pronouncement of

the Supreme Court in the case of State Bank of Patiala and others Vs. S.K. Sharma, wherein the Supreme Court held as follows.-

"(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under "no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. Take a case where there is a provision expressly providing that after the evidence of the employer/Government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the Enquiry Officer does not give that opportunity in spite of the delinquent officer/employee asking for it the prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) herein below is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment). The ultimate test is always the same,

viz., test of prejudice or the test of fair hearing, as it may be called".

28. We shall now deal with the question whether the Punishing Authority has passed a speaking order with reference to the rules. The rules are called "VISL Officers" Service Rules" (hereinafter referred to as "the rules").

29. We are dealing with those rules which are relevant for this case. Rule 46 deals with the procedure for imposing major penalties. More particularly, Rule 46(xix) provides that the Disciplinary Authority shall review the record of the enquiry and record his findings and if the Disciplinary Authority is of the opinion that the case warrants the imposition of any of the major penalties he shall forward the records of the enquiry along with his findings to the Managing Director. This is exactly what has been done.

30. In this case, the Disciplinary Authority had in fact sent the records of the enquiry along with the findings to the Managing Director, who was the Punishing Authority. All the records at Annexures-R3 to R5 were sent to the Punishing Authority (the Vice-Chairman and Managing Director).

31. Aggrieved by the order of the dismissal the respondent has preferred an appeal to the Appellate Authority. The Appellate Authority after considering the appeal filed by the respondent upheld the order dated 25-9-1982 passed by the Vice-Chairman and Managing Director and rejected the appeal of the respondent. The order of the Appellate Authority is placed before us at Annexure-C.

32. The finding of the learned Single Judge was that the Punishing Authority did not pass a considered order. The order of the Punishing Authority dated 25th of September, 1982 (Annexure-D), reads as follows.-

"Visveshvaraya Iron and Steel Limited, Bhadravathi. No. MD/M/051/82-83 25th September, 1982. Sub: Dismissal of Sri S.K. Somanatha, Assistant Sales Manager, (under suspension).

Preamble.-

Three domestic enquiries were ordered to be conducted against Sri S.K. Somanatha, Assistant Sales Manager of the company, who was also kept under suspension pending enquiry from 23-12-1981. Enquiry (No. 1771 of 1981) was ordered against the delinquent officer for his serious irregularities of major misconducts such as submission of questionable documents, maintenance of improper attendance registers and acquittance rolls, claiming of pay and allowances of non-existent employees, etc. In this enquiry, the Enquiry Officer in his report dated 14-4-1982 has found the delinquent guilty of all the five charges framed against him. Under Enquiry No. 20 of 1982, charges were framed against the delinquent officer for having committed fraud in connection with the business of the company with a view to gain personal financial gains and trying to suppress the facts thereafter to escape the charges. In this enquiry also, the Enquiry Officer in his report dated 14-4-1982 has held that the delinquent officer is guilty of both the misconducts. Under Enquiry No. 106 of 1982, the delinquent

officer was charge-sheeted on 5 grave misconducts of misappropriating of company funds. In this enquiry also, the delinquent officer was found guilty of all the charges framed against him except Charge No. 4(d). I accept the findings of the Enquiry Officer and hence this order:

ORDER

Sri S.K. Somanatha, Assistant Sales Manager, is therefore hereby dismissed from the services of the company under Rule 43(8)(viii) of VISL Officers' Service Rules, with immediate effect, with disqualification for future employment in the company.

Copies of the reports of the Enquiry Officer are enclosed.

Sd/- (K.V. Imiraya) Vice-Chairman and Managing Director.

Sri S.K. Somanatha, Assistant Sales Manager, VISL, Bhadravathi - through Senior Security Officer Sri S.K. Somanatha, SH-4/B, New Town, Bhadravathi - 577301.

COPY Advocate"

33. Aggrieved by this order at Annexure-D as stated earlier the respondent filed an appeal to the Chairman/Managing Director and ultimately the Chairman dismissed the appeal as per Annexure-C.

34. The learned Single Judge found fault with the Disciplinary Authority since he did not record reasons for inflicting such punishment.

Rule 46(xx) reads as follows:-

"(a) If the Board of Directors or the Managing Director is of the opinion that any of the penalties specified in Rule 43(B) should be imposed, such penalties may be imposed keeping in view the gravity of the misconduct and the mitigating or aggravating circumstances; if any thereon.

(b) The Disciplinary Authority specified above shall record reasons for inflicting such punishments".

35. The learned Single Judge also took strong objection to the fact that the Punishing Authority did not consider whether the nature of the misconduct deserved extreme punishment of dismissal. At paragraph 24 of the judgment the learned Single Judge held as follows:-

"24. The question regarding gravity of misconduct and whether the order of dismissal is proportionate or disproportionate has not been considered by the Disciplinary Authority, which was required to be considered by him, non-consideration of this relevant aspect of the matter has rendered the impugned order of dismissal bad in law, hence for this reason also the impugned order of dismissal is liable to be quashed".

36. The learned Single Judge also found fault with the order of the Appellate Authority by holding at paragraph 22 that a duty was cast upon the Appellate Authority to consider the entire records and to give reasons. According to the learned Single Judge the Appellate Authority had not passed a considered order and the order could not be sustained in law.

37. A perusal of Annexure-D clearly indicates that the Punishing Authority had dealt with all the three enquiries and the Punishing Authority came to the conclusion that the respondent had committed serious irregularities and had committed fraud and acts of misappropriation. The Punishing Authority also in his order held that he accepted the findings of the Enquiry Officer.

38. It is possible to argue that the Punishing Authority could have passed a more detailed order. However, once he accepts the finding of the Enquiry Officer, the Punishing Authority could hardly have any discretion of imposing a lesser punishment than dismissal from service when the charges involved were of misappropriation of the funds of the company. The Punishing Authority could not have passed any order other than what he did once he accepted the enquiry report. In Enquiry No. 1771 of 1981, the Enquiry Officer found the respondent guilty of serious irregularities of major misconducts such as" submission of questionable documents, maintenance of improper attendance registers and acquittance rolls, claiming of pay and allowances of non-existent employees; in Enquiry No. 20 of 1982 the Enquiry Officer found the respondent guilty of committing fraud in connection with the business of the company with a view to personal financial gain. In Enquiry No. 106 of 1982 the respondent was found guilty of five grave acts of misappropriation of company funds.

39. The Punishing Authority after perusing the enquiry report and taking into account serious acts of misappropriation satisfying himself came to the conclusion that the order of dismissal was proper. It can never be said that the Managing Director had not taken into account the gravity of the misconduct and the mitigating or aggravating circumstances, if any. There appears to be nothing wrong in the order passed by the Managing Director. There is no violation of any of the rules.

39-A. We shall now deal with the order of the Appellate Authority.

40. Rule 48(i) deals with the appeals. Rule 48(i) reads as follows.-

"Every Officer of the company shall be entitled to appeal to the appropriate Appellate Authority against orders passed under these rules, within forty-five days from the date of communication of the order provided, however, that the Appellate Authority may entertain an appeal after the expiry of the period, if he is satisfied that the appellant had sufficient grounds for not preferring the appeal in time".

41. We have carefully perused the order of the Appellate Authority at Annexure-C. It is a considered and detailed order. Every aspect of the matter has been

considered. The findings by the Enquiry Officer and the punishment imposed by the Punishing Authority have been considered before rejection of the appeal.

42. The learned Single Judge found fault with the order of the Appellate Authority. The Appellate Authority in its order dated 16th November, 1999 has clearly stated that there was some merit in the appeal that the combination of three enquiries was not desirable. Then the Appellate Authority considered the matter and came to the conclusion that there was no prejudice caused to the respondent. The Appellate Authority has stated in paragraph 5 that there has been no violation of principles of natural justice and at paragraph 6 the Appellate Authority has held that the Enquiry Authority is the best judge for appreciating the evidence and if he has come to certain conclusion based on the evidence, it cannot be set aside unless the enquiry is perverse. He also held that he did not find any infirmity in the enquiry against the respondent. The Appellate Authority after analysing the materials on record came to the conclusion as follows.-

"After careful consideration of the facts and circumstances of the case, I uphold the order dated 25-9-1982 of the Vice-Chairman and Managing Director and reject the appeal of the appellant".

43. Neither the order of the Punishing Authority nor the order of the Appellate Authority in our view suffers from any infirmity. There has been application of mind both by the Punishing Authority and by the Appellate Authority before passing the respective orders.

44. Before we part with this case it would be apt to refer to the judgment of the Supreme Court in the case of Ram Kumar Vs. State of Haryana, . The Supreme Court dealt with this aspect at paragraphs 7 and 8 as follows.-

"7. It has been pointed out by the High Court that the Punishing Authority has passed a lengthy order running into seven pages mentioning therein the contents of the charge-sheet, the detailed deposition of the witnesses, as recorded by the Enquiry Officer, and the findings of the Enquiry Officer. The explanation submitted by the appellant has also been reproduced in the impugned order. Thereafter, the Punishing Authority stated as follows.-

"I have considered the charge-sheet, the reply filed to the charge-sheet, the statements made during enquiry, the report of the Enquiry Officer, the show-cause notice, the reply filed by the delinquent and other papers and that no reason is available to me on the basis of which reliance may not be placed on the report of the Enquiry Officer. Therefore, keeping these circumstances in view, I terminate his service with effect from the date of issue of this order".

8. In view of the contents of the impugned order, it is difficult to say that the Punishing Authority had not applied his mind to the case before terminating the service of the appellant. The Punishing Authority has placed reliance upon the report of the Enquiry Officer which means that he has not only agreed with the findings of the Enquiry Officer, but also has accepted the reasons given by him

for the findings. In our opinion, when the Punishing Authority agrees with the findings of the Enquiry Officer and accepts the reasons give by him in support of such findings, it is not necessary for the Punishing Authority to again discuss evidence and come to the same findings as that of the Enquiry Officer and give the same reasons for the findings. We are unable to accept the contention made on behalf of the appellant that the impugned order of termination is vitiated as it is a non-speaking order and, does not contain any reason. When by the impugned order the Punishing Authority has accepted the findings of the Enquiry Officer and the reasons given by him, the question of non-compliance with the principles of natural justice does not arise. It is also incorrect to say that the impugned order is not a speaking order".

(emphasis supplied)

45. The same view was taken by a Division Bench of this Court in the case of *Indian Overseas Bank v. R. Sathyamurthi* 1995 I LLJ 16 .

46. In another case, the Supreme Court in the case of *Municipal Committee, Bahadurgarh Vs. Krishan Behari and others*, took a serious view of cases involving corruption. The Supreme Court held at paragraph 4 as follows.-

"4. It is obvious that the respondent has been convicted of a serious crime and it is a clear case attracting under proviso (a) to Article 311(2) of the Constitution. In a case of such nature --indeed, in cases involving corruption -- there cannot be any other punishment than dismissal. Any sympathy shown in such cases is totally uncalled for and opposed to public interest. The amount misappropriated may be small or large; it is the act of misappropriation that is relevant. The Director had interfered with the punishment under a total misapprehension of the relevant factors to be borne in mind in such a case".

(emphasis supplied)

47. It is not necessary for us to debate this matter any further. From the record it is clear that the impugned order at Annexure-D has been validly made by the Appellate Authority after application of mind. No prejudice has been caused to the respondent.

48. Courts should be slow to interfere with the findings of the Disciplinary Authority and the Appellate Authority in oases of serious acts of misappropriation as laid down by the Supreme Court in *State Bank of Patiala's* case, *supra*, which has been referred to by us earlier. The Court should enquire whether there has been any prejudice caused to the delinquent in the domestic enquiry. If there is no prejudice, the Court should normally refrain from interfering. In the words of the Supreme Court "Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under "no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent

officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment.. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for".

49. In that view of the matter, the order of the learned Single Judge is set aside and the writ petition stands dismissed. No order as to costs.