

GAHC010266872018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/8653/2018

BINAY KUMAR SINGH
S/O- LATE BABBAN PRASAD SINGH, R/O- G-8A, PROTECH PARK,
HENGRABARI, GUWAHATI- 781036

VERSUS

THE UNION OF INDIA AND 19 ORS
REP. BY THE SECRETARY, MIN OF DEVELOPMENT OF NORTH EASTERN
REGION, VIGYAN BHAWAN ANNEXE, MAULANA AZAD ROAD, NEW
DELHI

2:THE SECRETARY
MIN OF CORPORATE AFFAIRS
A WING
SHASTRI BHAWAN
RAJENDRA PRASAD ROAD
NEW DELHI- 01

3:CENTRAL VIGILANCE COMMISSION
REP. BY THE CVC
SATARKTA BHAWAN
GPO COMPLEX
BLOCK INA
NEW DELHI- 110023

4:THE CHIEF VIGILANCE OFFICER
MIN OF DEVELOPMENT OF NORTH EASTERN REGION
VIGYAN BHAWAN ANNEXE
MAULANA AZAD ROAD
NEW DELHI

5:THE DIRECTOR

SERIOUS FRAUD INVESTIGATION OFFICE
2ND PARYAVARAN BHAWAN
CGO COMPLEX
LODI ROAD
NEW DELHI- 110003

6:THE REGISTRAR OF COMPANY
MIN OF CORPORATE AFFAIRS
MORELLO BUILDING GROUND FLOOR
KACHERY ROAD
SHILLONG- 793001

7:THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION
LIMITED
REP. BY CHAIRMAN AND MANAGING DIRECTOR
NEDFI HOUSE
G S ROAD
DISPUR
GUWAHATI- 06

8:THE EXECUTIVE DIRECTOR
THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LIMITED
NEDFI HOUSE
G S ROAD
DISPUR
GUWAHATI- 06

9:GENERAL MANAGER (HR AND ADMN)
THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LIMITED
NEDFI HOUSE
G S ROAD
DISPUR
GUWAHATI- 06

10:THE DEPUTY GENERAL MANAGER (HR AND ADMN)
THE NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LIMITED
NEDFI HOUSE
G S ROAD
DISPUR
GUWAHATI- 06

11:THE CHIEF VIGILANCE OFFICER
NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LIMITED
NEDFI HOUSE
GUWAHATI- 781006

12:SMITA KHAUND
AGM NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD

NEDFI HOUSE
GUWAHATI- 781006

13:OLEE BORA
GENERAL MANAGER
NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD
NEDFI HOUSE
GUWAHATI- 781003

14:RAM MUVIAH
BOARD OF DIRECTOR OF NEDFI
SECRETARY
NORTH EASTERN COUNCIL
NEC SECRETARIAT
NONGRIM HILLS
SHILLONG- 793003
MEGHALAYA

15:R R RASHMI
BOARD OF DIRECTOR OF NEDFI
CHIEF SECRETARY
GOVT OF MANIPUR
IMPHAL
MANIPUR

16:J K SINHA
BOARD OF DIRECTOR OF NEDFI
JT SECRETARY
MIN OF DONER
VIGYAN BHAWAN ANNEXE
MAULANA AZAD ROAD
NEW DELHI- 110011

17:CGM
BOARD OF DIRECTOR OF NEDFI
SBI
SBI LOCAL HEAD OFFICE
DISPUR
GUWAHATI- 781006

18:K BANERJEE
BOARD OF DIRECTOR OF NEDFI
CGM
IDBI BANK
GROUND FLOOR
IDBI HOUSE
44 SHAKESPEARE SARANI ROAD
KOLKATA

WEST BENGAL- 700017

19:K S NAGNYAL
BOARD OF DIRECTOR OF NEDFI
ZONAL MANAGER
LICI
EASTERN ZONE
4
CHITTARANJAN AVE
CHOWRINGHEE NORTH
BOWBAZAR
KOLKATA
WEST BENGAL- 700072

20:SHRUTI GONSALVES
BOARD OF DIRECTOR OF NEDFI
CHIEF EXECUTIVE OFFICER
SEWA GRIHA RIN LTD
206-207
2ND FLOOR
VIKRAM TOWERS
NEAR RAJENDRA PLACE METRO STATION
NEW DELHI- 110008

21:T K MUKHOPADHYAY
BOARD OF DIRECTOR OF NEDFI
NEDFI HOUSE
G S ROAD
DISPUR
GUWAHATI- 06

22:R K GARG
BOARD OF DIRECTOR OF NEDFI
NEDFI HOUSE
G S ROAD
DISPUR
GUWAHATI- 0

Advocate for the Petitioner : MR A SARMA

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 16.07.2024

Heard Mr. Binay Kumar Singh, the petitioner-in-person. Also heard Mr. C.K.S. Baruah, learned CGC appearing for respondent nos. 1 to 6, Mr. D.J. Das, learned counsel for respondent nos. 7 to 11 and Mr. G. Das, learned counsel for respondent nos. 12 and 13.

2. The case of the petitioner-in-person is that while he was serving as Deputy General Manager in North Eastern Development Finance Corporation Ltd. (NEDFi in short), he was transferred from Guwahati Office of NEDFi to Kohima Office of NEDFi by the impugned orders dated 20.12.2017, 01.08.2018, 03.10.2018 and 26.11.2018. The said transfer orders are assailed in this writ petition filed under Article 226 of the Constitution of India.

3. It may be mentioned that initially the petitioner was transferred to the Branch office of NEDFi at Kohima, Nagaland by an order dated 20.12.2017. The said order was assailed by the petitioner by filing WP(C) 182/2018 and this Court, by order dated 17.05.2018, disposed of the said writ petition with liberty to the petitioner to submit a representation within three days which would be considered by the Board without participation by Mr. B. Paul Mukti, the then Chairman and Managing Director, NEDFi and till then, it was ordered that coercive steps should not be taken. It was further provided that the impugned order dated 20.12.2017 will abide by the final decision of the Board of Directors of NEDFi. The Board of Directors of NEDFi by minutes of proceeding dated 22.06.2018, held that the transfer of the petitioner-in-person was proper and in order.

4. In the meanwhile, the petitioner resigned from NEDFi by submitting his letter dated 03.10.2018, which was challenged by the petitioner by filing W.P.(C) 6575/2018 and this Court, by order dated 28.09.2018, passed in the said writ petition, had suspended the order dated 10.08.2016, issued by NEDFi by which the petitioner-in-person was released from service. However, by judgment and order dated 26.07.2021, passed by this Court, WP(C) 6575/2018 was dismissed.

5. Thus, the effect of the said order dated 26.07.2021, passed by this Court in WP(C) 6575/2018 is that the release of the petitioner-in-person on tendering of resignation had attained to finality.

6. In view of said judgment and order dated 26.07.2021 passed by this Court in WP(C) 6575/2018, the Court is of the considered opinion that the prayer for quashing of the transfer order dated 20.12.2017, 01.08.2018, 03.10.2018 and 26.11.2018 has been rendered infructuous.

7. Although the petitioner-in-person has made an attempt to agitate his grievances against his erstwhile employer and its officers, but those are besides the issue involved in the present writ petition. In the present writ petition, the petitioner has sought for relief in respect of his transfer from Guwahati Office of NEDFi to Kohima Office of NEDFi. With the acceptance of his resignation which has attained finality by the hereinbefore referred judgment dated 26.07.2021 passed in WP(C) 6575/2018, the challenge made in this writ petition against the order of transfer is no longer live issue. Accordingly, on the ground that with the acceptance of the resignation of the petitioner-in-person, and with the dismissal of its challenge by judgment dated 26.07.2021 passed in WP(C) 6575/2018, this writ petition has been rendered infructuous and therefore, dismissed.

8. After pronouncement of the order of dismissal of this writ petition was dictated in open Court, the petitioner-in-person has continued to make allegations against (i) NEDFi, his erstwhile employer; (ii) its officers; (iii) against his engaged counsel, who were appearing for him in previous proceedings before this Court; and (iv) against the learned senior counsel and the learned counsel appearing for NEDFi. Therefore, this Court had asked the petitioner- in-person not to continue with his submissions as this writ petition was dismissed and by informing him that the learned counsel against whom insinuations are being made are not arrayed as parties in this writ petition.

9. However, the petitioner-in- person continued with his allegations to the following effect:-

- a. In his earlier writ petition, he had engaged a learned counsel, who had, in collusion with the learned senior advocate as well as the counsel for NEDFi i.e. respondent nos. 7 to 11 herein committed fraud upon him and managed to get WP(C) 182/2018 on extraneous consideration.
- b. He had also alleged that because of the collusion amongst his earlier set of counsel, officials of NEDFi and the learned senior counsel and counsel for NEDFi, they had *managed to get a favourable order from this particular Bench of this Court*, which had dismissed WP(C) 6575/2018 by judgment and order dated 26.07.2021.
- c. It was further alleged that adverse orders was *fraudulently obtained* from this Bench in I.A.(C) 67/2020.
- d. It was also submitted that in a writ petition filed by one Manoj

Kumar Das, being WP(C) 3158/2015, orders adverse to the interest of the petitioner was *fraudulently obtained* from this Bench.

- e. It was repetitively reiterated that those orders were *fraudulent obtained* from this particular Bench of this Court.

10. This Court had warned the petitioner on five occasions not to make allegations against (i) his learned counsel; and (ii) the learned senior counsel and the learned counsel for NEDFi as they were not arrayed as respondents in this case and when no relief is prayed against them as they would not have any opportunity to defend themselves.

11. Thereafter, on a query of this Court, the learned counsel for the NEDFi had submitted that to the best of their knowledge, none of the orders passed by this Bench of this Court was assailed by the petitioner, which had attained finality.

12. It would be relevant to put on record that as the petitioner-in-person had represented himself in WP(C) 6575/2018, in the judgment dated 26.07.2021, passed in the said writ petition, the petitioner-in-person was informed about his right to file intra-Court appeal.

13. Be that as it may, despite warning to the petitioner-in-person on five occasions in the open Court, the petitioner-in-person had persistently continued to make insinuations against his erstwhile employer i.e. NEDFi, its officers as well as against his counsel, who were appearing for him in previous proceedings before this Court and also against the learned senior counsel and the learned counsel appearing for NEDFi. He has reiterated that the because of collusion and fraud committed upon this Court, orders adverse to his interest was passed by this Bench of this Court in WP(C) 6575/2015 as well as in this writ petition.

14. Therefore, on account of the insinuations being persistently made against (i) NEDFi, his erstwhile employer; (ii) its officers; (iii) against his engaged counsel, who were appearing for him in previous proceedings before this Court; and (iv) against the learned senior counsel and the learned counsel appearing for NEDFi and because of his allegations that on account of collusion, orders adverse to his interest was fraudulently obtained from this particular Bench of this Court, the Court has put the petitioner-in- person that he was inviting further consequences for his submissions.

15. As it was 01:15 PM., the petitioner-in- person was informed that the Court will take a recess at 1:15 PM and will resume at 2:00 PM., and order passed so far was dictated in open Court.

16. After the short lunch break, matter was called again. On a query of the Court as to in which paragraph of the writ petition or reply-affidavit, if any, any allegation of fraud committed by his earlier set of counsel is narrated, the petitioner-in-person has submitted that the fraud came to light later on and therefore, there is no statement on record in the proceedings of this writ petition. However, it was submitted that the petitioner has send e-mail to the Supreme Court of India and to the Hon'ble The Chief Justice of this Court.

17. The petitioner-in-person was further heard.

18. The Court is of the considered opinion that it is elementary in an adversarial litigation that a person against whom any adverse insinuations are made, must be arrayed as a party. Moreover, the allegations of fraud are required to be heard in their presence and proved by the petitioner in accordance with law. Merely because the counsel for NEDFi together with learned senior counsel is present in Court because the instructing counsel is

holding a brief for the adversarial party, it would not give a licence to the petitioner-in-person to allege that fraud was committed by the senior counsel and counsel for NEDFi. It was grossly unfair on part of the petitioner-in-person to allege that because of collusion amongst his counsel and counsel for the respondents, the respondents has been able to *fraudulently obtain* order unfavourable to the petitioner- in- person from this particular Bench of this Court.

19. Insofar as insinuation against the Court is concerned, the Court takes an exception to such insinuation against the Court wherein the petitioner-in-person has alleged that the respondents had been able to *fraudulently obtain* orders from this particular Bench. Such an allegation has the potential to undermine the dignity and the majesty of this Court, which in turn has the potential to effect the administration of justice and to show the Court in bad light. Therefore, it would be appropriate to request the Registry to examine the matter and to take a call as to whether it would be proper to draw-up a proceeding against the petitioner-in-person for committing criminal contempt against the Court.

20. It is reiterated that after the resignation of the petitioner-in-person was accepted, his resignation has attained finality by virtue of dismissal of his writ petition by judgment and order dated 26.07.2021, passed in WP(C) 6575/2018, as the challenge to his resignation was negated. Therefore, the challenge to the order of the petitioner-in-person against his transfer has become infructuous. Thus, by no stretch of imagination, the issue raised in this writ petition can be said to be a live issue when the petitioner is no longer in service.

21. Despite the petitioner-in-person being put to notice that he is inviting further adverse orders from the Court, the petitioner-in-person has not shown

any remorse and did not express his regret and offered no apology.

22. Therefore, in light of the discussions above, for precipitating his argument after order was dictated to dismiss the writ petition as infructuous, the Court is inclined to impose a cost of Rs.50,000/- (Rupees Fifty thousand only) on the petitioner-in-person for wasting more than an hour's time of this Court. The petitioner-in-person is directed to deposit the said cost in the Registry of this Court within a period of 1 (one) month from the date of the order.

23. It is further provided that on the failure of the petitioner-in-person to deposit the said cost, such amount shall be liable to be recovered in accordance with law.

24. On recovery of such cost, 50% of the recovered cost shall be made over to the Gauhati High Court Legal Aid Committee and the balance 50% of the cost shall be made over to Shishu Sarothi, an NGO, working for and with children and persons with disabilities (including cerebral palsy) in Assam and North-East India.

25. In light of the allegations made against this Bench, the Registry shall not list any case involving the petitioner-in-person before this Bench.

JUDGE

Comparing Assistant