IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6321 of 2015

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Pradeep Kumar Sharma Son of Shri D.D. Sharma, presently Residing at - 11438, P/29 Extension, balbir Nagar (Trans Nala), Delhi - 110032. .... Petitioner

Versus

1. The Punjab National Bank, through the Regional Manager, Regional Officer, Patna B R Block, Chanakya Place, Patna.
2. The Regional Manager, Punjab National Bank, Regional Officer Patna B, R Block, Chanakya Place, Patna.
3. The Deputy General Manager/Disciplinary Authority, Punjab National Bank, Field General Manager Office, R-Block, Chanakya Tower, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Awadhesh Kumar, Advocate
For the Respondents no.1 to 3 : Dr. Pankaj, Advocate
For the CBI : Mr. Sanjay Kumar, SC-CBI

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 30-03-2016

The petitioner prays for quashing of the order dated 9.3.2015, issued by respondent no.3 by which a departmental enquiry was held against him. He further prays for quashing of the charge sheet issued under Regulation 6 of the Punjab National Bank (herein after referred to as 'the Bank'), Officer Employees (Discipline & Appeal) Regulation, 1977 vide letter dated 2.2.2015. Petitioner has also prayed for stay of order dated 9.3.2015 during pendency of the writ petition.

2. The petitioner was employed as Assistant manager in Punjab National Bank in the Personnel Department of Regional office at Patna during 1983 to 89. He was placed under suspension with effect from 19.12.1989 for allegation of routing some fictitious

bills of advocates amounting to Rs.6 lakhs and charge memo was to be served in due course. It is relevant to state here that an FIR was also registered by the Central Bureau of Investigation (CBI), Bihar, Patna branch, being Case no. RC – 6(A)/90/Patna, dated 19.1.1990, under sections 420, 467, 468, 471 and 477A of the Indian Penal Code and under sections 5(1)(d) read with 5(2) of the Prevention of Corruption Act, 1947, corresponding to Section 13 (1)(d) of the Prevention of Corruption Act, 1988.

3. The petitioner has sought quashing of the very initiation of departmental proceeding on the ground of prolonged delay. It is the plea of the Bank that the departmental proceeding was not started against the petitioner, because of restriction imposed by the CBI not to initiate departmental proceeding without its concurrence, which commenced only in the year 2014. Reference is made to a letter, dated 19.1.1994, of the Superintendent of Police, CBI/SPE/Patna branch which is annexed as Annexure A to the counter affidavit filed on behalf of the Chief Manager, PNB, Patna. The contents of the letter is quoted herein below for easy reference:-

> *"Photo copy of the charge sheet served upon Sri PK Sharma is sent herewith for your record only. It is clarified that no Departmental proceeding shall be initiated against Shri P.K.Sharma without out concurrence."*

4.The Bank has further referred to letter, dated 3.3.2014

(Annexure A to the supplementary counter affidavit) addressed by P.K.Gupta, Dy.General Manager, PNB, FMG office, Patna to Sri V K Singh, Deputy Inspector General, CBI, SPE, Patna stating that the concurrence to initiate proceeding was granted on 14.2.2014. Contents of letter dated 3.2.2014 is quoted herein below:-

> *"This has reference to our meeting with your good-self on 14.2.2014, on the captioned matter, wherein you had given oral permission to initiate RDA against the erring official and assured us that, if any documents would be required in this regard then it will be made available to our office."*

5. I fail to understand as to how it was within the reach of the CBI to direct the Bank either to initiate or not to initiate a proceeding. Letter of the Superintendent of Police, CBI, Patna, dated 19.1.1994 was most unwarranted and it virtually scuttled the departmental proceeding. One equally fails to comprehend, as to why the Bank came under the influence of letter of the Superintendent of Police, CBI dated 19.1.1994, which was without jurisdiction. The action of the Superintendent of Police, CBI and the concerned personnel of the Bank in following letter dated 19.1.1994 are aspects, which the respondent authorities should enquire into.

6. Now, coming to the merits of the case, the petitioner

seeks quashing of the proceeding initiated after 25 years to 26 years of the letter, dated 19.1.1994 suspending him on ground of prolonged delay. In support of his submissions, the petitioner has placed reliance on decisions in case of State of Madhya Pradesh Vs. 1990 SCC Spl.738, in case of Bari Sigh, reported in AIR 2006SC 207 and SCC 2005(6) SCC 36,38.

7. I would have considered quashing the initiation of proceeding on the ground of prolonged delay of 25 to 26 years, but for observation in paragraph 8 of the order, dated 22.6.2015, wherein it was observed that it would not be appropriate for this Court to set aside the initiation of departmental proceeding. Paragraph 8 of the order is quoted herein below for easy reference:-

> *"Having heard learned counsel for the parties also in the matter of interim relief, while this Court is not inclined to stay the departmental proceeding but then it is directed that no final order shall be passed on the basis of such departmental proceeding without obtaining prior leave of this Court."*

8. The Bank in its affidavit asserts that departmental proceeding has concluded but no final order has been passed because of the court's interim order.

9. In the aforesaid circumstances, now the proceeding has concluded the interim prohibition on passing of final order in the proceeding, is vacated. It goes without saying that it will be open

for the petitioner, to challenge the final outcome of the proceeding, if he is so aggrieved.

10. With the aforesaid observations and directions, the writ petition is disposed of.

(Samarendra Pratap Singh, J)

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