

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11563 OF 2015

Shubhendra K. Bhandarkar

...Petitioner

Versus

Central Bank of India & Anr.

...Respondents

Mr. Sanjay Singhvi, Senior Advocate, a/w Mr. Bhavesh Parmar, i/b
Mr. Devmani J. Shukla for the Petitioner.

Mr. Loncy D'Souza, a/w Ms. Deepika Agrawal, i/b Mr. V.M. Parkar,
for the Respondents.

**CORAM : ANOOP V. MOHTA &
A.A. SAYED, JJ.**

DATE : 4th May 2016

ORDER :

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 Vs. Upendra Singh¹ and Union of India & Anr. Vs. Kunisetty Satyanarayana².

4 . Paragraphs 14 and 16 of the Supreme Court Judgment in Union of India & Anr. Vs. 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

¹ 1994 DGLS (Soft.) 240

² AIR 2007 SC 906 (1)

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 cases 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.

[A.A. SAYED, J.]

[ANOOP V. MOHTA, J.]