

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4718 OF 2015

Additional Directorate General,
Discipline and Vigilance, Adjutant General's
Branch, Integrated HQ of MOD (Army),
DHQ PO, New Delhi

..Petitioner

Versus

Central Bureau of Investigation,
Anti Corruption Branch, Pune and ors.

..Respondents

Ms. Rebecca Gonsalvez, advocate for the petitioner.

Mrs. P. H. Kantharia, advocate for respondent No.1.

Mr. Satish Maneshinde along with Ms. Sneha Jaisingh i/b. Bhauruchaa
Partners, advocates for respondent No.3.

Mr. Rohan Nahar, advocate for respondent No.4.

Mr. F. R. Shaikh, APP for the State.

**CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.**

DATE : 18th FEBRUARY, 2016.

P. C. :

Heard learned counsel and learned APP appearing for the
respective parties.

2. The petition is filed for following reliefs :

*“(a) that this Hon'ble Court may be pleased to
quash and set-aside the Order dated 23/12/2013 of the
Special Judge (CBI), Pune, accepting the First Closure
Report filed by the Respondent No.1 (Exhibit 'A' herein),*

(b) that this Hon'ble Court may be pleased to remand the matter back to the Special Judge (CBI), Pune with a direction to issue notice to the Petitioner and give the Petitioner an opportunity of being heard prior to passing an order on the First Closure Report filed by the Respondent No.1 (Exhibit 'O' herein),

(c) that this Hon'ble Court may be pleased to quash the Supplementary Closure Report filed by the Respondent No.1 in respect of FIR No.RC/Pune/2012/A/002 (Exhibit 'P' herein),

(d) that this Hon'ble Court may be pleased to quash and set aside the Order dated 9/4/2015 (Exhibit 'Q' herein) issuing notice to the Petitioner on the Supplementary Closure Report filed by the Respondent No.1 in respect of FIR No.RC/Pune/2012/A/002,

(e) that pending hearing and final disposal of this petition, the Respondent No.1 may be directed not to hand over the original documents seized by it during the investigation into FIR No.RC/Pune/2012/A/002, if the same have not already been returned.

(f) that pending hearing and final disposal of this petition, the proceedings before the Special Judge (CBI), Pune in respect of the Supplementary Closure Report filed by the Respondent No.1 in FIR No.RC/Pune/2012/A002 be stayed,"

2. The petitioner lodged a FIR being RC/Pune/2012/A002 with respondent No.1-CBI, ACB, Pune against respondent Nos. 3 to 5 under Section 120-B and 420 of the Indian Penal Code, 1860 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. Respondent No.1 thereafter commenced its investigation into the said FIR and various documents came to be seized during the course of the investigation. On 31st October, 2013, respondent No.1 filed a closure report in respect of the above referred FIR in the Court of the Special Judge (CBI), Pune. On 23rd December, 2013, the learned Special Judge (CBI), Pune, without issuing notice or hearing the petitioner, accepted the closure report of respondent No.1 and cancelled the bail bonds of respondent Nos. 3 to 5. On 9th April, 2015, respondent No.1 filed supplementary closure report essentially praying for correction of the order dated 23rd December, 2013, on the ground that inadvertently a wrong section i.e. 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act had been mentioned in the first closure report. The learned Special Judge while accepting the first closure report observed that no prima facie case was made out u/s 13(1)(e) punishable under Section 13(2) of the Prevention of Corruption Act.

3. The first closure report order is challenged on the sole ground that the same is passed without affording an opportunity of

hearing to the petitioner/original complainant. It is contended that once the closure report goes as violative of the principles of natural justice, the supplementary report must also go. Respondent Nos. 1 to 5 does not dispute that the petitioner was not issued any notice nor heard while passing the order on closure report. It is a settled position of law that before passing an order on closure report, the complainant must be heard.

4. In the above circumstances, we find that the order dated 23rd December, 2013 passed on the Closure Report of respondent No.1 cannot be sustained and same is quashed and set-aside. In the light of this, the supplementary closure report is also quashed and set-aside.

5. The learned Special Judge shall pass order on the closure report after hearing the petitioner expeditiously and preferably within a period of three months from the date of receipt of this order.

6. In the light of the above order, the petition stands disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]