

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.2980 of 2017

M.K. Raut, S/o Late Shri Tirthabasi Raut, aged about 59 years, R/o B-II/12, Civil Lines, Raipur, Tehsil and District Raipur (C.G.), currently working as Additional Chief Secretary, Government of Chhattisgarh.

---- Petitioner

Versus

1. Union of India, through Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi
2. Joint Director, Enforcement Directorate, Government of India, 1st & 2nd Floor, Jeevan Vishwas, LIC Building, EDC Complex, Patto Plaza, Panaji, Goa
3. Assistant Director, Enforcement Directorate, Government of India, 1st & 2nd Floor, Jeevan Vishwas, LIC Building, EDC Complex, Patto Plaza, Panaji, Goa
4. Assistant Director, Directorate of Enforcement, 3rd Floor, A-B Block, Central Excise Building, Tikrapara, Raipur, District Raipur (C.G.)

---- Respondents

ANDWrit Petition (C) No.2981 of 2017

Pradip Kumar Janawade, S/o Late Shri Motiram Janawade, aged about 61 years, R/o B-20, Ashwariya Kingdom, Kachana Road, Raipur, Post Telibandha, Thana Vidhansabha, Tehsil & District Raipur (C.G.), presently posted as O.S.D., General Administration Department, Mantralaya, Raipur (C.G.)

---- Petitioner

Versus

1. Union of India, through Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi
2. Joint Director, Enforcement Directorate, Government of India, 1st & 2nd Floor, Jeevan Vishwas, LIC Building, EDC Complex, Patto Plaza, Panaji, Goa
3. Assistant Director, Enforcement Directorate, Government of India, 1st & 2nd Floor, Jeevan Vishwas, LIC Building, EDC Complex, Patto Plaza, Panaji, Goa
4. Assistant Director, Directorate of Enforcement, 3rd Floor, A-B Block, Central Excise Building, Tikrapara, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioners: Mr. Anil Khare, Senior Advocate with Mr. Sanjay Kumar Agrawal, Mr. Harsh Wardhan and Mr. Jasmeet S. Hora, Advocates.
For Respondent No.1: Mr. B. Gopa Kumar, Assistant Solicitor General.
For Respondents No.2 to 4: -
Mr. Rajesh Kumar Kesharwani, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

08/11/2017

1. Since common question of law and fact is involved in both these petitions, they are being disposed of by this common order.
2. Learned Senior Counsel appearing for the petitioners would submit that against the petitioners enquiry under the provisions of the Foreign Exchange Management Act, 1999 (for short, 'the Act of 1999') read with the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000 (for short, 'the Rules of 2000'), has been initiated for violation of Sections 3 and 4 of the Act of 1999 and for holding enquiry under Rule 4 of the Rules of 2000, notice has been given but the documents annexed with the notice were not supplied for which the petitioners made application and ultimately, on 26-10-2017 / 27-10-2017, during the course of hearing, entire documents annexed with the notice were supplied to the petitioners and time up to 6-11-2017 was granted to the petitioners to file reply. According to the learned Senior Counsel, sufficient / reasonable time ought to have been granted, as ten days' time is not sufficient for replying the notice looking to the nature of allegations made against the petitioners.
3. Learned counsel appearing for the respondents would submit that sufficient opportunity has already been given to the petitioners to

file reply up to 6-11-2017, but they have not filed reply.

4. I have heard learned counsel for the parties and considered the rival submissions made herein-above.
5. Notice was issued to the petitioners on 4-9-2017, but on repeated request and insistence of the petitioners, documents annexed with the notice were supplied to them only as late as on 26-10-2017 / 27-10-2017 at the time of hearing and time of ten days up to 6-11-2017 was granted which has already expired and reply could not be prepared and filed according to the petitioners.
6. Looking to the nature of allegations and that the documents have been supplied only on 26-10-2017 / 27-10-2017, in my considered opinion, the petitioners are entitled for further time to submit their reply to show cause, therefore, it would be expedient to grant further three weeks' time to the petitioners to file their reply to show cause to the enquiry. It is ordered accordingly. Reply be filed on or before 4-12-2017 and thereafter, the adjudicating authority would proceed to consider and decide the question of holding enquiry as provided in Rule 4 (3) of the Rules of 2000. It is open to the petitioners to raise all the legally admissible and permissible grounds including the jurisdiction of the said authority while filing reply. Depending upon the result of decision under Rule 4 (3) of the Rules, 2000 of the adjudicating authority, the petitioners are at liberty to proceed further in accordance with law. Both the writ petitions are accordingly disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge