

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No. 7730/2015**

% **3rd March, 2017**

SHRI VISHWA BANDHU Petitioner

Through: Mr. I.S. Bakshi, Advocate.

versus

CENTRAL VIGILANCE COMMISSION AND ORS.

..... Respondents

Through: Mr. R.V. Sinha and Mr. A.S. Sinha, Advocates for R-1.

Mr. A.K. Gautam, Advocate for R-2.

Mr. A.K. Behera, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

W.P.(C) No. 7730/2015 and C.M. Appl. No. 15155/2015 (for stay)

1. By this writ petition under Article 226 of the Constitution

of India, the petitioner seeks the following reliefs:-

“i) A Writ of Certiorari or any Writ, Order or Direction calling for the records of the case;

ii) A Writ of Mandamus for issuing appropriate directions to the Respondent No.2 for filing the Reply of the concerned Officers along with his Comments to Intensive Examination Report Dt. 21.06.2012 to the Respondent no. 1, in accordance with law and the Guidelines of Respondent No.1 and for further directions to Respondent No.1, to thereafter, complete its Investigations and to conclude the Inquiry pursuant to the IE Report Dt. 21.06.2012, to its logical end, as per law.

iii) A Writ of Certiorari or any other Writ, Order or Direction for Quashing/Settling aside the Dismissal Order Dt. 29.04.2013 of the Petitioner,

issued by the Respondent No.3 and any/all proceedings conducted by it in relation thereto.

iv) Any other or such further Order (s), as this Hon'ble Court may deem fit and proper be also passed in favour of the Petitioner and against the Respondents."

2. The third relief sought as reproduced above is for setting aside the order of the disciplinary authority which has imposed the punishment upon the petitioner of dismissal from services.

3. Admittedly, against the order of the disciplinary authority a statutory appeal lies and petitioner has already filed this statutory appeal which is pending. When this statutory appeal will be decided by the appellate authority two things can happen. Firstly, it is possible that the appeal may be accepted and the petitioner may be exonerated and in such a case actually this writ petition need not at all have been filed because there would be no punishment order upon the petitioner. The second eventuality which can take place is that the appellate authority's order will uphold the punishment order passed by the disciplinary authority, and in which case the order of the disciplinary authority will merge in the order of the appellate authority. Therefore, petitioner will have to challenge the order of the appellate authority, and which till date has not been passed. The present writ petition is, therefore, pre-mature, inasmuch as, the statutory appeal filed by the petitioner is pending decision.

4. Accordingly, this writ petition is not maintainable because it is pre-mature, inasmuch as, the statutory appeal filed by the petitioner is pending disposal.

5. Prayer no. (ii) is a prayer of the petitioner claiming that the entire disciplinary proceedings must fail, inasmuch as, they have been conducted in violation of the requirement of not obtaining the first stage and second stage CVC reports. This would be a ground which would be available to the petitioner in the statutory appeal which is filed by the petitioner and pending before the appellate authority. Therefore, once again till the statutory appeal is decided, this writ petition challenging the order of the disciplinary authority dated 29.4.2013 is pre-mature.

6. In view of the above discussion, this writ petition is dismissed as being pre-mature. Since the present writ petition is disposed of C.M. Appl. No. 15155/2015 also stands disposed of.

MARCH 03, 2017/

VALMIKI J. MEHTA, J