

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2018

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

W.P.No.12460 of 2018

and

W.M.P.Nos.14594 & 14595 of 2018

S.Viswanathan

.... Petitioner

Versus

1.State Bank of India,
Rep. by its Regional Manager, RBO-I,
(Disciplinary Authority),
Region-1, Network-1, Administrative Unit,
No.86, Rajaji Salai,
Chennai - 600 001.

2.S.Ravi Kumar,
The Chief Manager,
(Enquiry Officer),
State Bank of India,
No.22, Taylors Road,
Kilpauk, Chennai - 600 010.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the Departmental proceedings dated 08.05.2018 and all other subsequent proceedings of the second respondent and quash the same in respect of charge sheet No.Dis/Con/144 dated 10.06.2014 and as being illegal, arbitrary, malafide and contrary to the order dated 27.03.2018 passed in Rev.Appln.No.57 of 2018 and to conduct the enquiry after giving sufficient time to the petitioner to get assistance from a Senior Counsel from the Madras Bar Association wrongly mentioned as Bar Council and to issue consequential Mandamus not to proceed with the Departmental Enquiry.

For Petitioner :: Mr.N.G.R.Prasad
Senior Counsel

For Respondents :: Mr.Chevanan Mohan for
M/s.King and Patridge

O R D E R

The writ petition has been filed in the nature of Certiorarified Mandamus seeking records of the Departmental proceedings dated 08.05.2018 and to quash the same.

2.The petitioner is facing Departmental Enquiry. The enquiry appears to be meandering its own slow course that has provided fodder to raise various allegations by the petitioner and the respondents against each other. At any rate, lastly, a Division Bench of this Court had given permission to the petitioner to seek the assistance of the Bar Association, for appointment of a senior counsel in addition to the counsel who is already assisting the petitioner in the Departmental proceedings.

3.The grievance of the petitioner is that the order copy was received only on 08.05.2018 and thereafter, when he tried to approach the Bar Association for appointment of a senior counsel, efforts failed since owing to the summer vacation, preferred advocate were, obviously, on vacation. In the meanwhile, on 08.05.2018, the Departmental proceedings went ahead and the petitioner was set ex-parte. This led to filing of the present writ petition. The limited scope of the writ petition is that the writ petitioner seeks assistance of senior counsel from the Bar Association. He claims vindictive attitude by the respondent in proceeding with the enquiry.

4.This matter came up before this Court on 16.05.2018. On 16.05.2018, this Court wanted the Court official to contact the Secretary of Bar Association to enquire whether it would be possible to suggest the name of a Senior Counsel Mr.V.R.Kamalanathan, learned Advocate and Secretary of the Bar Association was kind enough to co-operate in this issue and he forwarded a list of three designated Senior Advocates.

5.However, the learned counsel for the petitioner raised misgivings over the suggested names. According to him, he would like to appoint a counsel who is well versed with Labour Law and on whom the petitioner has confidence and who would willingly take up the assignment. Taking up the assignment on a timeline is necessary because the Division Bench has fixed a time period within which the enquiry should be completed.

6.The learned counsel for the respondent pointed out that as many as 18 proceedings had been conducted in the Departmental Enquiry and seven writ petitions have been filed by the petitioner. The petitioner is entitled to exercise his rights in approaching this Court and that is something to be

appreciated since the petitioner is not resorting to any other method to give vent to grievances.

7.It is clear that the Departmental Proceedings cannot proceed ex-parte. Consequently, the order setting the petitioner ex-parte on 08.05.2018 has to be necessarily interfered with by this Court and it is also interfered. The said order is set aside. The petitioner seeks assistance of a senior counsel from the Bar Association. It is a fact that the normal functioning of the Courts are closed owing Summer recess.

8.Mr.N.G.R.Prasad, learned counsel for the petitioner states that to appoint a senior counsel, time must be granted till atleast the opening of the Court after Summer Vacation. The Court re-opens on 04.06.2018. The learned counsel undertakes that he would mention the matter before the Division Bench and seek extension of time to complete the enquiry.

9.This Court can only impose the following conditions for conducting Departmental Enquiry subsequent to the appointment of a senior counsel of the satisfaction of the petitioner. After the senior counsel is appointed, the Departmental Enquiry is to be conducted, to the extent possible, after the new counsel familiarises himself with the records relating to the Enquiry Proceedings, on a day-to-day basis. Even if adjournments are sought a maximum of three working days can be granted as adjournment. This has to be strictly adhered. The Departmental Proceedings should continue. It is also hoped that the learned counsel for the petitioner would mention before the Division Bench and seek extension of time for the Departmental Proceedings. I am informed that three witnesses on the side of the Management have been examined and there is one more witness to be examined.

10.It is represented by the learned counsel for the respondent that the petitioner is retiring on superannuation in November, 2018. It is hoped that the Departmental Enquiry would be completed well within that date, to enable all formalities to be completed.

11.With such observation, the writ petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ah/kas

To

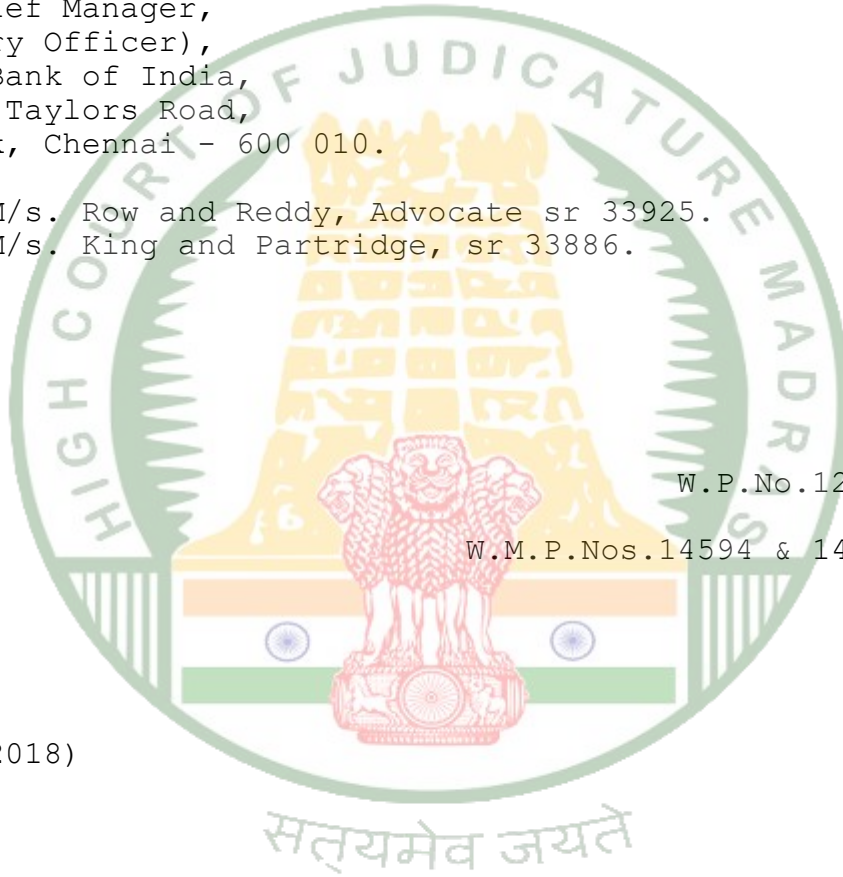
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+1 CC to M/s. Row and Reddy, Advocate sr 33925.
+1 CC to M/s. King and Partridge, sr 33886.

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CA(CO)
SP(22/05/2018)



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