

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION NO.27284 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri Anand Kumar Kapoor, learned counsel for the petitioner. The proceedings under challenge in this Writ Petition is the charge memo dated 31.08.2017 whereby the petitioner was called upon to show cause why disciplinary proceedings should not be held against him with respect to the said charges. The explanation submitted by the petitioner was not accepted, and an Enquiry Officer was appointed to enquire into the charges.

Sri Anand Kumar Kapoor, learned counsel for the petitioner, would submit that, since the charge sheet relates to a judicial order passed by the petitioner, the scope of disciplinary proceedings, initiated pursuant thereto, is extremely limited; while an erroneous judicial order can be corrected in an appeal or in revision, that would not justify disciplinary proceedings being initiated against him; it is only in the limited circumstances, as laid down by the Supreme Court in **Ramesh Chander Singh v. High Court of Allahabad**¹, that disciplinary proceedings can be taken against an officer for a judicial order passed by him; the Calendar Case, in which the petitioner had issued a non-bailable warrant (NBW), was earlier dismissed; it was only on a revision filed thereagainst in CrI.R.P.No.7 of 2014 was the order set aside, and the matter remanded to the petitioner who was the Principal

¹ (2007) 4 SCC 247

Junior Civil Judge-cum-V Metropolitan Magistrate, Cyberabad at Medchal; the special vakalat filed on behalf of the first accused earlier, when C.C.No.456 of 2016 was pending before him, ceased to remain in force on the dismissal of C.C.No.456 of 2016; the petitioner was, therefore, justified in issuing an NBW since the summons issued earlier was not claimed by the first accused; and the impugned show cause notice, therefore, necessitates being set aside.

It would be wholly inappropriate for us to examine the truth or otherwise of the allegations levelled against the petitioner, in the charge memo and the statements of imputations, since disciplinary proceedings are still pending. The present Writ Petition is filed questioning the validity of the charge memo issued earlier. The allegations in the charge memo, and the statements of imputations and allegations based on which the charge memo was issued, are that the petitioner had issued a non-bailable warrant to accused No.1, an N.R.I., a U.S. citizen and a practising doctor in the United States of America; the petitioner had, before ordering NBWs, failed to consider whether summons sent to accused No.1 at the Hyderabad address were returned unclaimed; and he had also not verified whether the permission granted to accused No.1, to be represented by a special vakalat holder, was in force or not before issuing NBW against accused No.1.

The question which necessitates examination, in these proceedings, is whether the disciplinary proceedings initiated against the petitioner would fall within the parameters laid down in **Ramesh Chander Singh**¹ wherein the Supreme Court held that for the High Court to initiate disciplinary proceedings, there should be

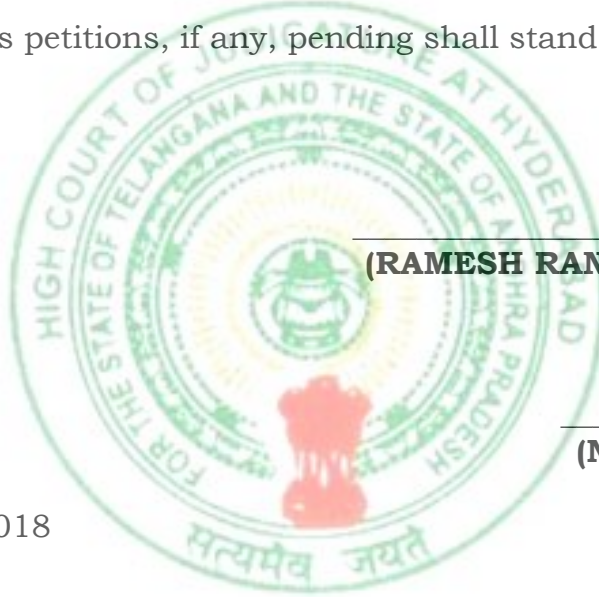
strong grounds to suspect the officer's *bona fides*, and the order itself should be actuated by malice, bias or illegality. The allegations levelled against the petitioner, if true, may render the judicial order passed by him illegal in terms of the aforesaid judgment of the Supreme Court.

Even otherwise, in **Ramesh Chander Singh**¹, disciplinary proceedings were initiated against the petitioner therein; an enquiry was held thereafter; a notice was issued to him asking him to show cause why punishment of stoppage of two increments with cumulative effect should not be imposed on him; thereafter, the matter was placed before the Full Court of the High Court which imposed the major punishment of stoppage of two increments with cumulative effect; and it is only on conclusion of disciplinary proceedings, after punishment was imposed, and on the order of punishment being subject to challenge, did the Supreme Court examine whether the decision to initiate disciplinary proceedings, based solely on a complaint the contents of which were not believed to be true by the High Court, was justified.

Unlike in **Ramesh Chander Singh**¹, the contents of the complaint have not been disbelieved by the High Court in the present case. In any event, the entire issue is only at the stage of an enquiry, and it is always open to the petitioner to put forth his defence during the course of enquiry, including placing reliance on the judgment of the Supreme Court in **Ramesh Chander Singh**¹. Suffice it to observe that the allegations levelled against the petitioner, if presumed to be true, are not such as to warrant the charge sheet being quashed, even before completion of the disciplinary enquiry. It is made clear that we have not expressed

any opinion on the truth or otherwise of the allegations levelled in the charge memo against the petitioner, as these are all matters for examination during the course of the departmental enquiry. We, however, see no reason to interdict the disciplinary proceedings initiated against the petitioner and leave all contentions, including those raised in this Writ Petition, open for examination, if need be, in appropriate legal proceedings instituted by the petitioner after conclusion of the disciplinary proceedings.

Subject to the aforesaid observations, the Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.



(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

2nd August 2018
RRB