

HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.7117 of 2018

ORDER: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

In this petition under Article 227 of the Constitution, a decision of the Central Administrative Tribunal refusing to interfere with the enquiry proceedings, midway, is challenged.

2. We have heard learned counsel for the petitioner and learned counsel for the Central Government.

3. The petitioner is employed in the Government of India under the control of the Department of Atomic Energy. He is facing disciplinary proceedings initiated by the first respondent - Secretary, Department of Atomic Energy, and the third respondent – Deputy Chief Executive (Administration) has been appointed as enquiry authority.

4. The fundamental argument raised by the petitioner before the Tribunal was that the action has been initiated by the first respondent without lawful authority inasmuch as the proceedings issued against him leading to the initiation of disciplinary proceedings is not expressed to have been made in the name of the President of India in terms of Article 77 of the Constitution. Learned counsel for the petitioner places reliance on the

judgment of the Supreme Court in **State of Bombay v. Purushottam Jog Naik**¹ to buttress his argument that expression of the decision of the President has to be made in that name in obedience to Article 77 of the Constitution.

5. The material papers as well as the impugned order of the Tribunal show that the petitioner responded to the show cause notices and the enquiry proceedings are in the midway. It is submitted by the learned counsel for the Central Government that an additional affidavit has been placed before this Court placing on the record the Notification, under which, the President of India issued the requisite authorization way back in 1985. That is a matter to be agitated by the petitioner, if at all necessary, before the enquiry officer. The learned Tribunal took the view that the enquiry proceedings cannot be quashed when enquiry has already commenced, unless the enquiry officer has inherent lack of jurisdiction. The Tribunal has left open the contention, which the petitioner had raised before it, as one that could be raised in the enquiry proceedings before the enquiry officer. This was done by the Tribunal notwithstanding the reply statement before it that the President of India had by general instructions authorized the first respondent in such matters.

L

¹ AIR 1952 SC 317

6. Looking at the manner in which the learned Tribunal has dealt with the matter, we do not see that there is any error of jurisdictional illegality or *ex facie* ground which results in grave and manifest miscarriage of justice warranting exercise of power by us under Article 227 of the Constitution. We do not see any ground to interfere with the impugned order of the Tribunal. This matter fails.

7. In the result, this Writ Petition is dismissed.

Miscellaneous petitions, if any pending, shall also stand dismissed.



THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 02.01.2019

A. RAJASHEKER REDDY, J

kvni