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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 25.02.2021

Pronounced on: 04.03.2021

+ **C.M. No. 1965/2021 in W.P.(C) 4808/2019**

RAJIV BHASIN

..... Petitioner

Through: Mr. Siddharth Yadav, Advocate

Versus

**CENTRE FOR DEVELOPMENT OF TELEMATICS (C-DOT) &
ANR.**

..... Respondents

Through: Mr. Pragyan Sharma, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

C.M. No. 1965/2021

1. By this application, applicant/petitioner is seeking clarification of order dated 13.05.2019 passed by this Court.
2. At the hearing, learned counsel for petitioner submitted that petitioner has preferred W.P.(C) 7950/2020 challenging the charge-sheet dated 26.04.2019 issued against him and in the said petition, respondent has insisted that the issue pertaining to charge sheet dated 26.04.2019, issued to the petitioner on 29.04.2019, already stands closed by this Court vide its

order dated 13.05.2019, hence, the petitioner has lost the right to agitate the same in the subsequent petition.

3. Learned counsel for petitioner further submitted that illegal issuance of charge-sheet and contents thereof were never pleaded nor argued before this Court, as the same was not even served upon the petitioner at the time of filing of the present writ petition. Thus, petitioner prayed to clarify the order to the extent that all the issues pertaining to charge sheet dated 26.04.2019 are open and can be agitated by petitioner in a subsequent writ petition.

4. On the other hand, learned counsel for respondents No.1 submitted that the present application is barred by principles of *res judicata* and is not maintainable either in law or on facts and, therefore, is liable to be dismissed. It was contended that the charge sheet dated 26.04.2019 was already framed prior to passing of order dated 13.05.2019 by this Court and petitioner had the opportunity to amend the present writ petition, however, petitioner failed to do so and is, therefore, disentitled for any relief in the guise of clarification.

5. Learned counsel for respondent submitted that a submission was made on behalf of the petitioner that charge No.7 issued against the

petitioner in the charge sheet is only qua the complaint made against the Executive Director and charge sheet was issued by the Director itself and therefore, the Executive Director cannot be judge of his own case and thus, issue of charge-sheet has already been dealt with by this Court. It was next submitted that respondent No.1 was also directed to initiate departmental proceedings against the petitioner through Central Vigilance Commission (CVC) and by filing another writ petition, petitioner is trying to delay the proceedings and he should not be permitted to do so.

6. In rebuttal, learned counsel for petitioner submitted that once the issue pertaining to the charge sheet was neither agitated nor pleaded and not adjudicated by the Court, the same cannot be said to be hit by principles of *res judicata*. Counsel for petitioner submitted that the petition was filed on 25.04.2019 and copy of charge-sheet was served upon the petitioner on 29.04.2019 and it was neither directly nor indirectly in issue before the Court and for this reason only, this Court had granted liberty to the petitioner to file reply to the charge sheet and directed the concerned authority to deal with the same. Learned counsel has brought attention of this Court to various paragraphs of order dated 13.05.2021, specifically paragraph No.8, to emphasize that charge sheet has been issued after filing

of the petition and hence, petitioner has refrained from commenting upon the same. Lastly, it was urged on behalf of petitioner that in the interest of justice, petitioner cannot be deprived of the opportunity to challenge the charge-sheet and he may be permitted to avail of his rights by agitating it in the subsequent writ petition.

7. Heard learned counsel for the parties.

8. Pertinently, when this petition came up for hearing before me, the prayers made by petitioner were as under:-

“Hon'ble Court May Kindly Be Pleased to:-

a. Issue a Writ, order or direction quashing the letter No. C DOT/EDR/RGR-ORDER/2019 Dated 12.04.2019 and consequently the order dated 25.01.2018 vide which the Respondent No. 1 herein had diluted the responsibilities of the Registrar in complete contravention of the Relevant Rules.

b. Issue a Writ, order or direction directing the Respondent No. 1 herein not to issue any letters/orders in furtherance letter No. CDOT/EDR/RGR-ORDER/2019 Dated 12.04.2019.

c. Issue a Writ, order or direction directing the Central Vigilance Commission to initiate an independent enquiry into the vigilance complaint filed by the petitioner herein.

d. Direct cost to be paid to the Petitioners herein

e. Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

9. The aforesaid extraction of the prayer clause makes it manifestly clear that the relief sought before this Court is limited to quashing of letters dated W.P.(C)4808/2019

12.04.2019 and 25.01.2018 issued by the respondent and proceedings relating thereto and there is no mention of charge sheet therein.

10. In paragraph No.7 of order dated 13.05.2019 it has been mentioned that learned senior counsel appearing for respondent had submitted that charge sheet dated 26.04.2019 has been served upon the petitioner on 29.04.2019 and petitioner has sought time to file reply thereto and also sought copies of additional documents.

11. The aforesaid submission of learned counsel for respondent was replied to by counsel appearing for petitioner in paragraph No.8 of the order that since charge sheet has been issued after filing of the petition, he does not want to comment upon the charge sheet and argued that on the date of issuance of suspension order, there was no material before the Board against the petitioner. Further, in paragraph No.10 submission of learned counsel for petitioner has been recorded that he is not touching the allegations in the charge sheet, however, he pointed out that charge No.7 issued against the petitioner in the charge sheet is qua the complaint made against the Executive Director and the charge sheet has been issued by the Executive Director itself and therefore, Executive Director cannot be a Judge of his own case.

12. Pertinently, the primary ground on which quashing of letters dated 12.04.2019 and 25.01.2018 is sought, is that these orders have been issued as a counter blast to the vigilance complaint that petitioner had made against the Board members of respondent No.1. In my considered opinion, the aforesaid submission of learned counsel for the petitioner was made in support of the afore-noted submission only that since the charge sheet was issued by the Director itself therefore, the Executive Director cannot be judge of his own case. However, this Court had neither touched the merits with regard to legality or illegality of letters dated 12.04.2019 and 25.01.2018 nor perused or commented upon the charge sheet.

13. Further, it has so been recorded in paragraph No. 12 that opportunity is granted to the petitioner to file reply to the charge sheet and respondents are directed to take a final decision, whether to proceed or to drop proceedings. In the next paragraph i.e. para No.13, this Court had directed that if respondents come to a conclusion that departmental proceedings are to be initiated, that shall not be done by respondents but by Central Vigilance Commission and reason for directing so was also clearly mentioned because the petitioner had made allegations against the Executive Director, who cannot be a part of the departmental proceedings. It appears

respondents have wrongly interpreted it that this Court has directed inquiry to be conducted by Central Vigilance Commission, whereas it was subject to the condition that if upon filing of the reply to the charge sheet, respondents take a final call that departmental proceedings have to be initiated against the petitioner, then the same shall be conducted by Central Vigilance Commission and not by the Executive Director and to emphasize it, in the next paragraph No. 14 it was further directed that the Executive Director shall not participate or assist directly or indirectly in the departmental proceedings.

14. Accordingly, this Court has not considered the contents of letters dated 12.04.2019 and 25.01.2018 and other prayers made in the writ petition and that contents of charge sheet dated 26.04.2019 have also not been touched upon.

15. With aforesaid clarification, the present application stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

MARCH 04, 2021

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