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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 791 of 2022

Kumar Sanjay Jha
Vs.
Union of India & Ors.

Mr. Kumarjyoti Tewari,
Mrs. Rajlakshmi Ghatak
.... For the petitioner.

Mr. Debapriya Gupta,
Mr. Arijit Majumdar
... For Union of India.

This is the second round of litigation between the parties. The petitioner had filed a previous writ petition, being WPA 10645 of 2021, which was disposed of by an order dated 29th June, 2021. The operative portion of the said order is set-out hereunder:-

“Having heard the contentions of the respective parties, the writ petition is disposed of directing the petitioner to participate in the General Security Force Court, being held *de novo* on and from June 28, 2021. It is made clear that all documents relied upon by the respondents to be used in the proceeding against the petitioner, shall be supplied to the petitioner. The statements of all witnesses, which shall be recorded in this proceeding, shall be supplied to the petitioner. The petitioner shall be allowed to cross-examine all the witnesses produced by the prosecution. The petitioner shall be allowed an opportunity to examine himself and his witnesses. The petitioner shall also be entitled to summon such witnesses

who may be necessary for proving his innocence. The apprehension of the petitioner that his subordinates may be exonerated cannot be decided at this stage of the proceeding when the ROE against such persons are in progress. The petitioner shall always be at liberty to challenge the any order at the appropriate stage and all points urged in this writ petition shall be left open for the petitioner to urge at the appropriate stage. Any statements of witnesses that may have been recorded in the earlier proceeding shall not be included in this proceeding. The *de novo* proceeding shall not be included in this proceeding. The *de novo* proceeding will continue afresh from the very initial stages. The authority shall act fairly, impartially and comply with the requirement of law and principles of natural justice”.

The petitioner says that the General Security Force Court (in short, GSFC) held for trying the charges against the petitioner is acting contrary to the direction given in the order dated 29th June, 2021. The petitioner says that he has made several applications, some of which have been rejected without passing any detailed order and some are yet to be decided. The petitioner has also alleged that the documents which are produced from the side of the employer in support of the allegations against the petitioner are not admissible in evidence. The petitioner therefor has ultimately sought for quashing of the proceedings held against him before the GSFC.

The respondents have objected to the interim and

final relief claimed in the writ petition. The respondents say that the petitioner has to go before the Confirming Authority, if the petitioner is dissatisfied about mode in which his applications have been dealt with in view of the extant service rules. The respondents also say that there are no documents which have not been admitted in evidence by GSFC against the petitioner without the same having been proved.

So far as the interference to the trial before GSFC is concerned, I am not inclined to do so at this stage on the basis of the materials on record. Any deviation from the settled procedure, any violation of any legal provision or holding GSFC contrary to the direction given in the order dated 29th June, 2021 should be urged before GSFC so that a decision on such issues can be agitated by the petitioner to challenge the order of GSFC if the same goes against him. This Court sitting in writ jurisdiction cannot monitor the hearing before the GSFC on day-to-day basis. The petitioner has also not been able to demonstrate *prima facie* before this Court that the petitioner is entitled to the final reliefs as claimed by prayer (A)(vi).

I find no merit in the writ petition and I am also not inclined to interfere with the proceedings before GSFC at this stage on the basis of the materials on record.

The writ petition is, therefor, disposed of by granting the petitioner leave to take all points available to him

regarding the documents, the procedure and mode in which the GSFC is functioning including those taken in the instant writ petition before the GSFC.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)