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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1108 OF 2021

Pournima Gupte

..... Petitioner

Vs.

Union of India & Ors.

..... Respondents

Mr. Siddhesh Bhole, Mr.Varad Achwal i/b M/s.SSB Legal and
Advisory for the Petitioner

Mr.R.S.Apte, Sr.Advocate a/w Ms.Sheetal Kohad for the
Respondents

**CORAM: S.V.GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : AUGUST 24, 2022

P.C.

1 The Petitioner assails the communication treating the
complaint as an Information under Rule 7 of the Actuaries
(Procedure for Enquiry of Professional and Other Misconduct) Rules,
2008.

2 The learned counsel for the Petitioner submits that the
Petitioner was appointed as a Whole-time Member (Actuary) on
26.12.2014 by the Director(Insurance), Government of India,
Ministry of Finance. Complaint was made by one Advocate from
Lucknow. Based on the said complaint, impugned communication is

issued.

3 The learned counsel submits that no details are given as to which Rule the Petitioner has violated. Charges have to be specific. Unless the authority points out the Rules that the Petitioner has violated, no further enquiry can be conducted. There are other members also. The Petitioner is not the sole member taking decision. According to the learned counsel, section 22 of the Insurance Regulatory and Development Authority Act, 1999 grants total protection against the suit, prosecution and other legal proceedings. The Petitioner is entitled to the said protection also. Under section 31 of the Actuaries Act, schedule is provided of the professional misconduct. Part I of the section 31 does not apply to the Petitioner. Impugned communication even remotely does not refer to the alleged violations. In absence thereof, it was improper to proceed further with the enquiry, as no charges are framed against the Petitioner so as to defend.

4 The learned counsel relies upon the judgment of the Apex Court in the matter of *Union of India vs. Gyan Singh Chattar*¹.

5 We have also heard Mr.Apte, the learned Senior Advocate for

1 (2009) 12 SCC 78

the Respondents.

6 The complaint was received by the Respondents from one Advocate detailing the information in the shape of charges. The details are given in the said communication. The Respondents forwarded copy of the same to the Petitioner and treated the said information under Rule 7 of the Rules and assigned the said information the number. It was further clarified in the said letter that the allegations against the Petitioner are specified in the letter. It was on the basis of the said letter, further enquiry is contemplated. It cannot be said that the enquiry is on vague grounds. The information on the basis of which enquiry is sought to be conducted, details acts of commission and omission for which the enquiry is conducted.

7 The Petitioner had sought for time. Time was also granted. Considering the details given in the information and the copy of the same was also provided to the Petitioner and the fact that the enquiry is yet to commence further, we are not inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India. The Petitioner was granted 30 days time under the communication dated 31.01.2021. It is submitted that by Mr.Apte the learned Senior Counsel that enquiry has not commenced further as the

written statement was not filed.

8 We grant the Petitioner three weeks more time to file written statement and raise all available defences. Naturally, the Respondents will have to consider the stand put forth by the Petitioner.

9 Writ Petition is accordingly disposed of. No costs.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)