IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4565/2021

1. Union of India,
   through Secretary, Ministry of Finance,
   Department of Revenue, General Board
   of Direct Taxes, North Block, New
   Delhi - 110 001.

2. The Principal Chief Commissioner of
   Income Tax, Aayakar Bhavan, Civil Lines,
   Nagpur.

3. The Principal Commissioner of Income
   Tax (Central), Aayakar Bhavan, Civil Lines,
   Nagpur.

4. The Joint Commissioner of Income Tax
   (Central), Range - II, Aayakar Bhavan,
   Civil Lines, Nagpur.

5. Women Safety Committee,
   through its Chairperson, Constituted
   by the Principal Chief Commissioner of
   Income Tax, Aayakar Bhavan, Civil Lines,
   Nagpur. ... Petitioners

- Versus -

Manishkumar S/o Jhalak Singh,
aged Major, Occ. working as Tax Assistant
in the O/o Joint Commissioner of Income

Tax, Central Range-II, Aayakar Bhavan,
Nagpur and R/o Quarter No.33, Type-II,
Income Tax Colony, Seminary Hills,
Nagpur. ... Respondent

Ms. Sushma, Advocate for the Petitioners.

Mr. M.M. Sudame, Advocate for the Respondent.

CORAM : SUNIL B. SHUKRE AND SMT. M.S. JAWALKAR, JJ.

DATE : 18 APRIL 2022

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule**. Rule made returnable forthwith. Heard finally by consent.

2. The petitioners have questioned the legality and correctness of the order dated 23rd September 2020 passed by the Central Administrative Tribunal thereby setting aside the memorandum of charge dated 12th August 2014 made against the

respondent and order of the Principal Chief Commissioner of Income Tax, Nagpur dated 23rd November 2016 and 22nd December 2016 on the principal ground that preliminary enquiry dated 18th February 2014, which was the starting point of serving of memorandum of charge against the respondent did not record a finding that *prima facie* respondent had made a false complaint which was of malicious and defamatory nature against one of the senior officers of the department. The Tribunal noted that in the preliminary report, which was signed only by Commissioner of Income Tax and not by all the members of the complaint committee, a *prima facie* conclusion was recorded that there was substance in the complaint made by Ms. Neha Thakur, Deputy Commissioner, Income Tax, Akola but, a rider was also inserted that proper conclusion can be drawn only after hearing the version of Shri Manishkumar, Tax Assistant (respondent) against whom allegations have been made and that thereafter Mr. Manishkumar i.e. respondent was not heard and no finding subsequent to hearing granted to Manishkumar was recorded by the complaint committee while submitting this preliminary report.

3. It is a fact that after submission of the preliminary report dated 18th February 2014, which emphasized upon hearing the version of Shri Manishkumar, no hearing was granted to Shri Manishkumar and, therefore, there is no finding recorded after hearing of Shri Manishkumar by the complaint committee and yet, departmental enquiry was initiated against the respondent by serving upon him the memorandum of charge in the year 2014.

4. On the backdrop of the aforestated facts, which are established on record, we do not think that any patent illegality or manifest error could be seen in the order impugned herein. Therefore, this petition would have to be dismissed as devoid of any merit. But, at the same time, considering the gravity of allegations made by Ms. Neha Thakur against respondent, we find it necessary to grant one more opportunity to the Revenue

Department for conducting a fresh investigation and enquiry into the allegations made against the respondent by Ms. Neha Thakur and recording a *prima facie* finding regarding genuineness of those allegations or otherwise. The writ petition is, therefore, dismissed with liberty to the petitioners to proceed in accordance with law, depending on the outcome of fresh investigation and enquiry, if any. Rule is discharged. No costs.

(SMT. M.S. JAWALKAR, J.) (SUNIL B. SHUKRE, J.)

Tambaskar.

Signed By:NILESH VILASRAO TAMBASKAR
Private Secretary
Signing Date:19.04.2022 18:05