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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 20th December, 2022
+ **W.P.(C) 10640/2022 & CM APPL. 54305/2022**
MR. AMIT GOEL Petitioner
Through: Petitioner in person.
versus

CENTRAL VIGILANCE COMMISSION Respondent
Through: Mr. Ravinder Agarwal, Advocate for
R-1.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 54305/2022 (for early hearing) in W.P.(C) 10640/2022

2. The matter has been taken up for hearing. Early hearing is allowed.
Application is disposed of.

3. The Petitioner is the husband of Ms. Kajal Goel whose loan account was classified as a Non-Performing Asset (NPA). He had filed a complaint before the Chief Vigilance Officer (*hereinafter* 'CVO'), SBI seeking investigation into the wrong classification of his wife's loan account. The said complaint was investigated by Mr. Tarun Kumar Muttreja, DGM (Retired) of SBI who gave a report against the Petitioner.

4. The Petitioner thereafter made allegations against Mr. Muttreja and filed a second complaint dated 16th September 2021 against him before the CVO, SBI. The said complaint was investigated by the Chief Vigilance Officer (CVO) of SBI - Mr. Ajit Kumar Rath.

5. Being dissatisfied with the said second investigation, the Petitioner lodged another complaint dated 19th May, 2022 with the Central Vigilance Commissioner, Delhi (*hereinafter 'CVC'*) on 19th May, 2022 against the CVO of SBI i.e., Mr. Ajit Kumar Rath. The allegations in the said complaint were that criminal offences were committed by Mr. Tarun Kumar Mutreja who had investigated the Petitioner's complaint with bias. It is also alleged by the Petitioner that a fair hearing was not given to him even by Mr. Rath, CVO, SBI and that he too was guilty of committing criminal offences.

6. The prayer in the said complaint was for inquiry and investigating the complaint against the CVO and other officials of the Vigilance Department of the SBI. The said prayer reads as under:

"1. To inquire or cause an inquiry or investigation into the present complaint against the CVO, SBI and the unknown officials at Vigilance Department of State Bank of India for the Misconduct of Departmental Bias and Negligence and Violation of Vigilance Rule 5.1.1, 5.1.2 and 5.5.3 of the Vigilance Manual 2017."

7. Along with the complaint, the Petitioner submitted various documents to the CVC. The CVC, vide its communication dated 30th May, 2022 gave the details of action taken by it as under:

"COMPLAINT MANAGEMENT SYSTEM

Complaint Against: Mr. Ajit Kumar Rath

Allegation: Others

Organisation: State Bank of India

ACTION DETAILS

Action taken by CVC: Sent to CVO STATE BANK OF INDIA for necessary action (NA)

Action Date: 2022-05-30

Status: As the commission has sent your complaint

for necessary action, it does not expect any report from the CVO of the organisation concerned. The CVO is expected to scrutinise the complaint within a period of one month of receipt of the complaint from the Commission and decide if any action is required. You may, therefore, if required, find out the status of your complaint from CVO, STATE BANK OF INDIA”

8. This communication of the CVC has been challenged by the Petitioner. The Petitioner who appears in person submits that the CVC could not have sent this complaint for necessary action to the same CVO against whom he had made complaint. He submits that this would be completely contrary to the principles of natural justice and would also amount to the CVO, SBI being a judge in his own cause.

9. Hence, the prayer in the writ is as under:

“A. Issue an writ of Mandamus, or any other appropriate writ, order or direction to the respondent to:

*#1 To order investigation into the Vigilance Complaint No.199192/2022/Vigilance3, as the present respondent’s Impugned Action as mentioned in Annexure P-2 of this petition i.e. to send Impugned Vigilance Complaint against the CVO, SBI (i.e. the accused) to the CVO, SBI for necessary action **violates the “Nemo judex in causa sua” Rule of Law of Natural Justice** and, respondent has neglected its duty as mentioned in Rule 1.4A of the Vigilance Manual.*

B. Pass such other order(s) this Hon’ble Court may deem fit and appropriate in the facts and circumstances of the present case.

10. In the counter affidavit, the CVC has, after capturing the background stated as under:

“10. That it is submitted that the complaint against CVO, SBI has no merit whatsoever. It is submitted that by filing repeated complaints against officers, who were entrusted with the responsibility of investigating complaints of the Petitioner, merely because the final finding do not support the allegations leveled by him, is nothing but an utter abuse of the process of law. The petition, therefore, deserves to be dismissed with exemplary costs.”

11. Mr. Goel submits that there is no order which has been passed by the CVC till date on the Petitioner's complaint. Mr. Ravinder Agarwal, Id. Counsel appearing for the CVC submits that the CVC has come to a conclusion that the complaint against the CVO, SBI has no merit.

12. Under the scheme of the Vigilance Manual issued by the Chief Vigilance Commission, the CVC ought to look into the matter if a complaint is filed before it against a public official or disciplinary action is sought and pass a self-contained speaking and reasoned order.

13. In the present case, the only order that has been passed by the CVC is Annexure P-2 which is a reference by the CVC, to the CVO of SBI which would not be a satisfactory position inasmuch as the Petitioner's complaint was against the same very CVO to whom the CVC has referred the matter. Obviously, the CVO of SBI cannot be a judge in his own cause.

14. The court has perused the record and heard both the parties. The stand of the CVC that the complaint has no merit, as stated in paragraph 10 is not backed up by any order passed by the CVC. Id. Counsel also fairly submits that there is no specific order which is passed but the affidavit is clear to this effect.

15. In the opinion of this Court, there has to be an independent inquiry

into the complaint raised by the Petitioner against the CVO of SBI, conducted by the CVC. The matter cannot be referred to the person against whom the complaint itself has been made. Accordingly, the impugned action of the CVC would not be tenable. The CVC would consider the matter independently on its own and after inquiring into the complaint pass its own independent peaking and reasoned order, in accordance with law. The said order shall be passed within a period of three months from today.

16. The pleadings of this case along with the documents shall be transmitted by Mr. Agarwal, Id. Counsel to the CVC so that all the Annexures and pleadings can be considered by the CVC.

17. The Petition is disposed of in these terms. All pending applications are disposed of. Next date of hearing is cancelled.

PRATHIBA M. SINGH
JUDGE

DECEMBER 20, 2022

Rahul/AM