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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 24th January, 2023

+ **W.P.(C) 880/2023 and CM APPL. 3408/2023**

BINOD AGARWAL Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Ms. Kunjala Bhardwaj, Ms. Shreya Mehra, Mr. Madhav Bajaj, Mr. Yash Upadhyay, Ms. Durgeshnandini, Ms. Vidhi Jain, Advocates for R-1.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner - Mr. Binod Aggarwal has approached this Court once more seeking the following prayer:

“(a) In view of the fact that Respondent No 2 was prematurely repatriated from SEEPZ SEZ [Ministry of Commerce, UOI] to that of State Government on 08.06.19, Respondent No.2 as on 19.06.2019 having no any authority to directed &/or ask the existing employees of the SEEPZ SEZ to enter into any such Consent Terms &/or settlement dated 19.06.19 in pending Mumbai High Court’s Criminal Writ Petition No.5182/2018, is in contravention/breach of the provisions of Prevention of Corruption Act, as per Apex Court’s verdict in the matter of Gian Singh V/s. State of Punjab & Anr. [Reported in (2012) 10 SCC 303 in Para.61] and the Hon’ble Mumbai High Court in order dated 26.7.2022 in Contempt Petition No.401 of 2022 in Criminal Writ Petition No.5182/2018 has made a reference that consent of the complainant is merely one of the factors and the Court

does not adjudicate inter se civil rights between the parties, hence this Hon'ble Court be pleased to Set Aside final impugned judgment & order dated 15.09.2020 passed by the Hon'ble Lokpal of India in Complaint No.13 of 2020 as the same is void ab-initio.

(b) This Hon'ble Court be pleased to constitute a committee comprising of Hon'ble retired judge of High Court to look into the factual matrix of corruption and criminal conspiracy indulged into by Respondent No.2 in connivance of the officers placed in high posts and are at the helm of affairs.

(c) pass such other and further orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(d) Cost of the application may be provided"

3. The Petitioner is an ex-service man and having served Indian Navy for 16 years after retirement, had joined SEEPZ-SEZ, Mumbai as an IT Advisor. He has filed the present petition seeking setting aside of the impugned order dated 15th September 2020 passed by the Lokpal of India as also against Respondent No.2 - Mr. Baldev Singh who was the then Development Commissioner of SEEPZ SEZ, Mumbai and levelled various allegations of corruption against him.

4. An earlier writ petition was filed by the Petitioner being **W.P.(C) 12480/2021** titled **Binod Agarwal v. Union of India & Anr.** seeking action against Mr. Baldev Singh by the authorities such as Central Vigilance Commission (CVC). In the said matter, the following order was passed by this Court on 6th December 2022. The relevant part of the order is as under:

"1. This hearing has been done through hybrid mode.

2. The Petitioner-Mr. Binod Agarwal who was serving in the Indian Navy and jointed SEEPZ SEZ,

Mumbai as an IT Advisor has preferred the present petition seeking action against Respondent No.3-Mr. Baldev Singh, who was then Development Commissioner of SEEPZ SEZ, Mumbai. The has levelled several complaints alleging corruption by Respondent No.3, before various authorities including the PMO, CVC, CBI, Ministry of Commerce, etc. Further complaints were filed by him on 18th June, 2018 before two police stations. However, it is his case that he is being harassed in view of these complaints and no action is being taken by authorities such as the Central Vigilance Commission (hereinafter "CVC")/Respondent Nos.1&2. Accordingly, the present writ petition has been instituted seeking the following reliefs:

“(a) that this hon’ble court may graciously be pleased to issue appropriate writ, directing the Respondent No.1 to take appropriate action on the Petitioner’s Complaints as mentioned below in accordance with the law;

(i) Complaint dated 19.5.2020 at ANNEXURE-11 [Page No. 76],

(ii) Complaint dated 05.06.2021 at ANNEXURE-12 [Page Nos.86],

(iii) Complaint dated 26.08.2019 at ANNEXURE-14 [Page Nos. 89],

and Communication by Vigilance Officer SEEPZ SEZ Registered by CVC vide Complaint no. 130092/2019/vigilance-6

And upon being satisfied that the facts as mentioned in the complaints ought not to be investigated by the Respondent No.2, the same be transferred to C.B.I for investigations & this Hon’ble Court be pleased to call for timely reports from the Respondent No.1, in the interest of justice;

b. That this Hon’ble Court will be graciously pleased to call for records of the investigation of corruption from Respondent No.2 and after examining the same issue a writ of mandamus or

any other appropriate writ, order or direction thereby directing Respondent No 1 to inquire to the extent under prevention of corruption Act and hand over matter to CBI or SIT for detailed further investigation for which PE is already completed by Respondent No 2 based on order of Respondent No 1 under Prevention of Corruption Act at ANNEXURE-2, [Page Nos. 50],

c. That this Hon'ble Court will be pleased to Direct Respondent No 1 to implement hiring of Independent External Monitor (IEM) as per Manual of procurement of Goods 2017, Preferably retired Hon'ble High court Judges so as to implement Integrity pact in all department of Central Government .

d. Pass such order and further orders as may be just and necessary be granted.

e. Cost of the application may be provided”

3. Notice was issued in this matter on 8th November, 2021, on which date the Petitioner was to satisfy the Court on the aspect of maintainability of this petition. Thereafter, on 18th January, 2022, Respondent No.3 had submitted that various petitions were filed by the Petitioner before the Bombay High Court with regard to the same issue, which had not been disclosed by the Petitioner. The Court had then directed Respondent No.3 to file the details of the said petitions.

4. Today, various orders have been placed before this Court in matters that seem to have been filed by the same Petitioner, before the Bombay High Court, Delhi High Court and the Lokpal. Moreover, it is submitted on behalf of Respondent No.3 that on 20th June, 2019, the Petitioner and various authorities had entered into consent terms, wherein it was clearly recorded that the Petitioner would withdraw all litigation filed before various courts and the Ministry of Commerce and Industry in respect of the SEEPZ SEZ, Mumbai. The said consent terms were accepted by the Bombay High Court and vide order dated 20th June, 2019 in **Mr. Binod Sitaram Agarwal v. State of Maharashtra & Anr.**

[Criminal Writ Petition No.5182 of 2018], the consent terms were also taken on record. The relevant extracts of the said order read as under:

“3. After completion of the investigation, a chargesheet has been filed. During the pendency of the petition, the parties have arrived at an amicable settlement and in pursuance thereof, the Consent Terms have been tendered. The Consent Terms are signed by the petitioner as well as Mr. Mahesh Yadav, working as Deputy Development Commissioner, SEEPZ, Andheri, Mumbai who has been duly authorized by the respondent No.2 to sign the Consent Terms and give effect to the same before the Court of law.

4. The Consent terms are taken on record. In the Consent Terms, it is agreed that the respondent No.2 SEEPZ shall withdraw all complaints/applications made before various forums and also the grievances raised before the Ministry of Commerce and Industry or any other authority. It is also agreed that the petitioner will withdraw all the complaints/application instituted before the various forums including the High Court, Police Station and also with the various offices of Central Government and the Bar Council of Maharashtra and Goa. He has also given his consent to co-operate and withdraw all other complaints. A clause is also included in the Consent Terms to the effect that the respondent No.2 SEEPZ administration shall have no objection to consider application of the petitioner for employment in SEEPZ in future subject to availability of the post as per law.”

5. Ld. counsel for Respondent No.3 further submits that the proceedings which were pending before the CVC pursuant to the complaints made by the Petitioner, have also now been closed. This fact is confirmed by the letter dated 19th July, 2022. In view of this, he submits that nothing further survives in this petition.

6. On behalf of the Petitioner, it is pointed out by Id. Counsel appearing for the Petitioner that the CVO of the Department of Commerce had submitted his report recommending that the case be handed over to the CBI. However, the said recommendations were rejected and only a showcause notice was issued. Respondent No.3 was, thereafter, also compulsorily retired. Despite this being the position, the CBI never investigated into the complaints made by the Petitioner.

7. Heard and pursue the record. On a specific query to the Petitioner, it is submitted that the consent terms which were filed before the Bombay High Court and recorded as above, are not disputed by the Petitioner. However, an allegation is sought to be made that the said consent terms have been obtained by fraud and coercion.

8. Considering the fact that the Petitioner had already availed of his remedies against the various authorities in respect of this very issue, this Court is of the opinion that the Petitioner cannot be permitted to circumvent the said consent terms and to prefer the present writ petition in August, 2021, almost two years after the consent terms were entered into and were taken on record by the Bombay High Court.

9. In the present petition also, the preliminary reliefs are being sought against Union of India through CVC, which was clearly covered by the consent terms which were filed before the Bombay High Court. Moreover, the letter dated 19th July, 2022 also shows that the same complaints have been considered and the enquiry against Respondent No.3 has been dropped. In this view of the matter, considering the prayers which seek issuance of writ/directions against Respondent No.1 i.e., the Central Vigilance Commission, the same is infructuous. The entire matter cannot be sought to be reopened in this manner once the consent terms are admitted. "

5. This is the second writ petition filed by the Petitioner. The Petitioner

appears in person through virtual mode and submits that he challenges the order dated 15th September, 2020 passed by the Lokpal of India. He submits that the Lokpal had initially directed enquiry by CVC but has now dismissed his petition. It is, therefore, his prayer that some agency should look into corruption related issues against Mr. Baldev Singh. He also relies upon the order of the Hon'ble Supreme Court dated 6th July, 2021 in ***W.P.(Crml.) 193/2021*** titled ***Binod Aggarwal v. Union of India & Anr.*** The said order reads as under:

*“Permission to appear and argue in person is granted.
Mr. Binod Agarwal, the petitioner appearing in-person
prays for leave to withdraw the writ petition.
The writ petition is accordingly dismissed as
withdrawn.
The dismissal of this writ petition, however, do not
prevent the petitioner from taking such remedy as may
be available to the petitioner in law.”*

6. A perusal of all the material on record would show that the intention of the Petitioner is to continue to raise issues against Mr. Baldev Singh and SEEPZ-SEZ, Mumbai with whom, the Petitioner has already entered into settlement terms which were recorded by the Hon'ble Bombay High Court vide order dated 20th June, 2019 in ***Mr. Binod Sitaram Agarwal v. State of Maharashtra & Anr. (Criminal Writ Petition No.5182 of 2018.***

7. Further, vide order dated 6th December, 2022, this Court had already made it clear that the said settlement terms cannot be reopened in this manner by the Petitioner before different fora. The Petitioner appears to be making repeated attempts to reopen the said settlement including by filing a contempt case before the Hon'ble Bombay High Court which has already been rejected.

8. The Lokpal order takes into consideration all the relevant facts and has only then rejected the Petitioner's complaint. The relevant portions of the order dated 15th September, 2020 passed by Lokpal reads:

"The complainant had mentioned in the complaint that he was falsely implicated and illegally detained in jail for 65 days. He filed a Criminal Bail application No.3027 of 2018. He was allowed bail by the Hon'ble High Court, Bombay, vide its Order dated 21st December, 2018. A copy of the Order has been enclosed by the complainant. In view of the Order passed by the Hon'ble High Court, Bombay, in the matter where the complainant has consented not to level any allegation against SEEPZ-SEZ or any of the officials connected with the Authority, the matter does not appear to warrant any intervention by the Lokpal. Accordingly, the complaint is disposed of."

Under these circumstances, there is no merit in the present petition and the same is accordingly dismissed. All pending applications are also disposed of.

9. The Petitioner is warned that if in future such cases continue to be filed to reopen the settlement terms, exemplary costs would be liable to be imposed.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 24, 2023/Rahul/KJ