

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE**

**WRIT PETITION NO. 8802 OF 2024**

Shri Vipul Kumar Singh. ... Petitioner.

V/s.

Union of India and Others. ... Respondents.

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Mr.Vicky Nagrani for the Petitioner.

Mr.Kiran S. Bapat, Senior Advocate with Mr.Neel Helekar for  
Respondent Nos.2 to 4.

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**CORAM : NITIN JAMDAR, AND  
M.M. SATHAYE, JJ.**

**DATE: 28 August 2024.**

**P.C.**

The Petitioner has challenged the order of suspension dated 16 April 2024 and chargesheet dated 17 April 2024 and sought to quash and set aside the order of suspension and chargesheet and consequently the departmental inquiry.

2. The Petitioner is working as an Associate Professor with Respondent No.3 – Indian Institute of Management. Respondent No.1 is the Union of India through the Secretary, Department of Higher Education. Respondent No.2 is the Board of Governors,

Indian Institute of Management. Respondent No.3 is the Director of Indian Institute of Management. Respondent No.4 is the Director in his personal capacity.

3. The Petitioner was appointed as an Assistant Professor on 13 April 2015. On 16 April 2024, an order was issued under the signature of the Director of the Institute placing the Petitioner under suspension. It was stated that the order was issued after approval of the competent authority and that in terms of Rule 10 (1) (a) of Central Civil Services (Classification, Control and Appeal) Rules, 1965 (CCS (Conduct) Rules, 1965), as disciplinary proceedings are contemplated against the Petitioner. On 17 April 2024, a memorandum was served on the Petitioner as per Rule 14 of the CCS (Conduct) Rules, 1965. Statement of articles of charge framed against the Petitioner was at Annexure-I to the Memorandum. Statement of Imputation of Misconduct in support of the articles of charge framed against the Petitioner was at Annexure-II to the memorandum. Article -I of the statement of articles of charge states that the Petitioner, while functioning as Associate Professor, colluded with Ms. Sangita N Jadhav, Deputy Registrar of the Institute to level allegations against present and former Director and various officials of the Institute maligning the image and reputation of the Institute and the personnel. It is alleged that by the aforesaid act, the Petitioner conducted in a manner unbecoming of a government servant and acted in contravention to the provisions of Rule 3 (1)

(iii), 3 (1) (xviii), 3 (1) (xix) and 3 (1) (xxi) of CCS (Conduct) Rules, 1965.

4. Statement of the imputation of misconduct gives details of the charge. It is stated that it was reported by a few faculty members that there were instances indicative of possible email hacking/ cybercrime involving sending of email communications using IP/ email addresses of the Institute to various government authorities outside the Institute. The matter was referred to forensic experts and a forensic examination report was received on 3 April 2024. It was stated that the Petitioner along with Ms.Sangita N Jadhav, Deputy Registrar created these documents using a system under the possession of the Petitioner and the Petitioner was therefore charged of the conduct unbecoming of a government servant failing to maintain discipline and acting to the detriment of the Institute.

5. On this backdrop, the Petitioner has filed the present petition challenging the order of suspension and chargesheet.

6. Reply affidavit is filed on behalf of the Respondent – Institute.

7. We have heard Mr.Vicky Nagrani, the learned Counsel for the Petitioner and Mr. Kiran Bapat, the learned Senior Advocate for the Respondent – Institute.

8. The learned Counsel for the Petitioner submitted that the order of suspension and the chargesheet have to be quashed and set aside since they were issued by an incompetent authority without the approval of the competent authority. The learned Counsel submitted that the memorandum of charges must be placed before the competent authority who has to apply its mind and if the position is to the contrary, then the memorandum will have to be set aside. The learned Counsel for the Petitioner relied upon the decision of the Hon'ble Supreme Court in the case of *Union of India and Others Versus B.V.Gopinath*<sup>1</sup>. Secondly, it was submitted that if the statement of the imputation of charges is to be read, no misconduct is made out by even bare perusal of it.

9. The learned Senior Advocate for the Respondent -Institute countered this submission contending that both, the order of suspension and the chargesheet have been duly issued by the competent authority with due application of mind and the Petitioner will have to participate in the inquiry and cannot avoid the same on the technical ground. The learned Senior Advocate submitted that all contentions are open to the Petitioner at the conclusion of the inquiry and the conduct of the Petitioner is only creating trouble and raising technical grounds to scuttle the inquiry.

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1 (2014) 1 SCC 351

10. The Petitioner is a Group A employee and the appointing authority for the Group A post with Pay Level 10 and above is the Board of Governors.

11. The order of suspension dated 16 April 2024 is issued by the Director as stated in the order with permission of the competent authority. In Reply affidavit, it is stated that the Board of Governors has issued approval to the suspension order of the Petitioner and to initiate disciplinary proceedings against the Petitioner.

12. The minutes of the meeting of the Board of Governors dated 15 January 2024 confirmed in the meeting held on 29 February 2024 are placed on record. The minutes of the meeting dated 15 January 2024 discussed the issue as regards the Petitioner's case in detail and the relevant discussion of the decision reads thus :

*“The Board having gone through the contents of all the emails by Prof. Vipul Kumar Singh in detail, observed that the contents of these emails along with voluminous documents cited and referred by Prof. Vipul Kumar Singh, mentioning the service matters of other employees including that of Faculty Members and Officers (non-teaching staff) of the institute, making false allegations about service matters of other employees and maligning the image of the Institute officials, citing judicial rules and laws, not furnishing explanations however, questioning the decision of the Board and Institute authorities and bypassing the official communication and reporting channels for service matters, are contemplative that Prof. Vipul Kumar Singh is not agreeing to the decision by the Board in its 164<sup>th</sup> meeting on the service matter of Prof.*

*Vipul Kumar Singh, and questioning the authority of the Director, as stated by him in the subject of emails from Prof. Vipul Kumar Singh, 'Urgent Request for Resolution of Appeal against the Order Dated June 26, 2023, claimed to be taken in 164th Meeting of BOG, NITIE Mumbai', communicated to Prof. Vipul Kumar Singh, by the Director.*

*Astounded by the enormity of the content of the emails and time spent in writing these emails by Prof. Vipul Kumar Singh, the members of the Board discussed on the role and responsibility of faculty and expressed astonishment over the misuse of official mode of communication using official email id instead of any productive work, complaining about service matters of other employees, referring to the complaints of other employees, ignoring the communication by the Director and not furnishing explanations to the reporting/disciplinary authority, ignoring the reminders by the Director to furnish reply and bypassing the official reporting and communication channels for personal service related matters despite the communication made by the Institute to the employees on, "Representations alleging irregularities in routine administrative/ financial matters received directly from the employees/union of the Institutions -reg. dated vide Ministry of Education letter F. No. 16-14/2023-TS-VII dated 28.11.2023.*

*The Board directed to initiate Departmental Action against delinquent employee, in accordance with the procedures laid down in CCS rules and Institute rules and conclude the same in a time bound manner.”*

These minutes were thereafter confirmed in the meeting dated 29 February 2024. There is thus a clear decision of the Board -the competent authority. The contention of the Petitioner that nothing

was decided in the meeting dated 15 January 2024 is entirely incorrect.

13. It is asserted in the affidavit in reply that as per directions of the Board of Governors, the chargesheet was drawn up and framed and placed before the Chairman, Board of Governors. The note for placing the Petitioner under suspension was also placed before the Chairman, Board of Governors for approval and approval was received from the Chairman, Board of Governors, acting on behalf of the Board of Governors. It is asserted that the Chairman, Board of Governors is entitled to act on behalf of the Board of Governors in emergent cases and subsequently, the decisions can be placed before the Board of Governors.

14. The contention of the Petitioner that the Chairman of the Board of Governors cannot act on behalf of the Board cannot lead to quashing the memorandum and the chargesheet. The Board of Governors has considered in detail the conduct of the Petitioner and has taken a decision to initiate a disciplinary inquiry. It is after the decision of the Board of Governors, which is confirmed in the subsequent meeting, that the Chairman has finalized the memorandum. Chairman has not acted in his individual capacity but as the Board. Permission is also granted for placing the Petitioner under suspension. The memorandum is issued in light of the decision of the Board of Governors and it refers to the same misconduct which the Board of Governors has taken note of.

15. The decision in the case of *B.V.Gopinath* will not assist the Petitioner. In this case, the respondent before the Hon'ble Supreme Court had succeeded before the Central Administrative Tribunal and the High Court who had held that the memorandum/ chargesheet was not approved by the Finance Minister who was the competent authority and therefore, the same had to be set aside. In that case under the governing rules, the competent authority was only the Finance Minister. There was no dispute as to the factual position that before the chargesheet was served, it was not placed before the Finance Minister for approval. In the present case, there is specific decision of the competent authority, that is, the Board of Governors to initiate the inquiry by giving particulars and the same has been converted into a chargesheet which is approved by the Chairman, Board of Governors. It is not that the action of the Chairman, Board of Governors is contrary to the decision of the Board and it is in consonance. The Chairman is the head of Board of Governors and thus part of the Board. Therefore the contention of Respondent that he was acting on behalf of the Board of Governors will have to be accepted at this stage.

16. We find merit in the contention of the Respondent-Institute that the Petitioner is raising only technical grounds to somehow stall the inquiry. If there are lacunae in the inquiry the consequences can always ensue to the detriment of the Respondents. Therefore the

contention of Petitioner regarding approval by the Chairman of the Board of Governors is hyper-technical to be made a ground to set aside the memorandum and interfere at this stage of the inquiry. Once the Board of Governors of the Institute has taken a conscious decision to proceed against the Petitioner in the departmental inquiry, the Petitioner will have to face the said inquiry. To give an opportunity to the Petitioner we clarify that it is open to the Petitioner to raise the same if the inquiry is concluded against the Petitioner.

17. The second ground raised by the Petitioner that no misconduct is made out by bare reading of the memorandum, is without any merit. The memorandum refers to a forensic report which indicated the involvement of the Petitioner in creating the electronic communications, which according to the Respondent - Institute is maligning the reputation of the Institute. Indulging in an act unbecoming of a government servant and maligning the reputation of the employer-institute are misconducts under the governing Rules which are quoted in the Memorandum itself.

18. Similarly, there is no merit in the contention of the Petitioner that a complaint was made against the Director- Respondent No.4 and therefore, the Director could not have issued the order of suspension. The order of suspension was a sequitur of the decision of the Board of Governors and was issued with the approval of the competent authority.

19. In these circumstances, this is not a case where writ jurisdiction needs to be exercised for interference in an ongoing inquiry. The Petitioner will have full opportunity to put forth his case and raise all such contentions that may be available in case the decision in the inquiry is against the Petitioner.

20. The writ petition is accordingly rejected.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)