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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 2873/2024, CAV 91/2024, \CM APPL. 11811/2024 -Stay. CM APPL. 11812/2024 -Ex. & CM APPL. 11813/2024 -Ex.

UNION OF INDIA & ORS. ..... Petitioners

Through: Mr. Ravi Prakash CGSC with Ms. Astu Khandelwal, Adv. and Mr Yasharth Shukla, Adv.

versus

SAMEER DNYANDEV WANKHEDE & ORS. ..... Respondents

Through: Mr. Viraj R. Datar, Sr. Adv. with Mr. Atul Nagrajan and Mr. Saurav Joon and Mr. Anand Kumar, Advs. for R-1.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE GIRISH KATHPALIA

O R D E R

% 27.02.2024

CAV 91/2024

1. Since learned counsel for respondent no. 1 enters appearance, the Caveat stands discharged.

W.P.(C) 2873/2024

2. The present petition under Article 226 of the Constitution of India seeks to assail the order dated 21.08.2023 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. N. 3722/2022. The petitioners also assail the order dated 13.10.2023 passed in Review Application (RA) no. 137/2023.
3. Vide the impugned order dated 21.08.2023, the learned Tribunal has

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partly allowed the original application filed by the applicant/respondent no. 1 by directing that before a decision is taken by the respondent nos. 1 and/or 5 therein, to take action against the applicant (respondent no. 1 before this Court), on the basis of the SET report dated 16.06.2022, he be granted an opportunity of personal hearing and a reasoned and speaking order be communicated to him. For the sake of convenience, the parties are hereinafter being referred to as per their position before the learned Tribunal.

4. Learned counsel for the petitioners submits that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that under the CCS (CCA) Rules, there is no requirement of granting any opportunity of personal hearing to a delinquent employee before issuing a charge sheet to him. The learned Tribunal, he therefore, contends has failed to appreciate the difference between a preliminary enquiry like the SET in the present case and a regular departmental enquiry where all principles of natural justice will be duly followed. He, therefore, prays that the impugned order be set aside.

5. Issue notice. Mr. Atul Nagrajan accepts notice on behalf of the applicant/respondent no. 1, who is the only contesting respondent. Mr. Viraj R. Datar, learned senior counsel appearing for the respondent no. 1 supports the impugned order by contending that in fact, it is the applicant who is aggrieved by the impugned order as the learned Tribunal despite noticing the fact that the respondent no. 4/ Mr. Gyaneshwar Singh, Deputy Director General, Narcotics Control Bureau, who was issuing him directions when he was carrying out the investigation, has been made the Chairman of the SET. After some

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arguments, he concedes that the directions to pass a reasoned and speaking order at a stage before any action is initiated against the applicant is contrary to law.

6. Having considered the submissions of learned counsel for the parties and perused the record, we are of the view that in the peculiar facts of the present case, where respondent no. 4 is alleged to have issued directions to the applicant while he was conducting investigation, there is no infirmity with the directions issued by the learned Tribunal insofar as it directs that he be granted an opportunity of personal hearing by respondent no. 1 and/or respondent no. 5 before deciding to initiate any action against him. However, the directions of the learned Tribunal requiring the respondent no. 1 and 5 to pass a reasoned and speaking order before taking a decision to initiate action against the applicant is wholly unsustainable and is required to be set aside. We are, therefore, inclined to agree with the learned counsel for the petitioner that such a requirement of passing a reasoned and speaking order before initiating any action against the applicant, would be contrary to the scheme of CCS (CCA) Rules itself.
7. For the aforesaid reasons, the writ petition is, partly allowed by setting aside the directions issued in para 9 of the impugned order dated 21.08.2023 insofar as it directs the respondent no. 1 and 5 to pass a reasoned and speaking order after granting a personal hearing to the applicant/respondent no. 1 i.e., before taking a decision as to whether any action is required to be initiated against him.
8. The writ petition is, accordingly, disposed of in the aforesaid terms.
9. Needless to state, this order will not come in the way of the

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applicant/respondent no. 1 assailing the impugned order, if so advised.

REKHA PALLI, J

GIRISH KATHPALIA, J

FEBRUARY 27, 2024
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