

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5321 OF 2025

Pratap Devrao Sawant

... Petitioner

Versus

The Registrar General, Bombay High Court & Anr.

... Respondent

.....

Mr. Nitin Gaware Patil i/b Mr. Jay Salunke for the Petitioner.

Mr. Kiran Bapat, Senior Advocate i/b Aumkar Joshi for the Respondent.

CORAM : **M. S. KARNIK AND**

N. R. BORKAR, JJ.

DATED : **24th JUNE, 2025.**

P.C. :

1. Heard learned counsel for the petitioner. The petitioner in this petition seeks following reliefs :-

“(a) Call for Record and Proceedings;

(b) Hold and declare that the order dated 09.04.2025 passed by the Respondent no.2 on Exhibit 10 filed by the petitioner in SID-II/VM/01/2024 & 09/2024 thereby rejecting the application for separation of enquiry is illegal, arbitrary and violative of Article 14 & 21 of the Constitution of India and for that purpose issue necessary orders.

(c) Issue appropriate writ, order or direction directing the Respondent authorities to separate the Enquiry of the other delinquent bearing No. SID-II/VM/01/2024 from that of the petitioner bearing No. SID/II/VM/09/2024 and for that reason issue necessary

orders.

(d) Issue appropriate Writ, order or direction directing the Respondent authorities to furnish all witness statements and preliminary enquiry report to the Petitioner and for that reason issue necessary order.

(e) Pending hearing and final disposal of this Writ Petition, grant stay to the further proceedings in Enquiry bearing No. SID-II/VM/09/2024 and for that purpose issue necessary orders.

(f) Grant ad-interim relief in terms of prayer clause 'e'.

(g) Grant any other relief in the interest of Justice and Equity."

2. Learned counsel for the petitioner submitted that the petitioner be furnished all the witnesses' statements recorded in the preliminary enquiry report. It is further prayed that the respondent-authorities conduct the enquiry against the other delinquent separately.

3. We are not mentioning the facts in detail as the enquiry proceedings are pending. Suffice it to observe as the contention of the learned senior counsel for the respondents that after the preliminary enquiry was conducted, the petitioner has been served with a charge-sheet. It is on the basis of such charge-sheet and the statements of the witnesses recorded during the course of the departmental proceedings and after following the principles of natural justice that further action will be taken. Even learned senior counsel for the respondents submits that the enquiry will be conducted based on the evidence which will be led during the

course of the enquiry and after giving proper opportunity to the petitioner. The preliminary enquiry was for a different purpose and no reliance will be placed on such report during the regular enquiry.

4. So far as the claim made by the petitioner that separate enquiry should be held against the petitioner, we find from charge No.7 that for avoiding multiplicity of the proceedings, the respondents are justified in holding a common enquiry. Learned senior counsel relied upon the decision of the Hon'ble Supreme Court in **Balbir Chand Vs. Food Corporation of India Ltd & Ors.** (1997) 3 SCC 371. Paragraph 5 thereof reads thus: -

"5. It is contended that when one delinquent officer seeks to summon other delinquent who is charged on the common cause of action or for the misconduct committed during the course of the same transaction or to summon more than one officer jointly, the petitioner should be given an opportunity of splitting up the matter and to contend that common enquiry has thereby caused grave prejudice to the petitioner denying him the opportunity to summon the officer to substantiate his defence. We find no force in the contention. It is seen that these are only instructions in conducting the proceedings as guidelines. When more than one delinquent officer are involved, then with a view to avoid multiplicity of the proceedings, needless delay resulting from conducting the same and overlapping adducting of evidence or omission thereof and conflict of decision in that behalf, it is always necessary and salutary that common enquiry should be conducted against all the delinquent officers. The competent authority would objectively consider their cases according to Rules and decide the matter

expeditiously after considering the evidence to record findings on proof of misconduct and proper penalty on proved charge and impose appropriate punishment on the delinquents. If one charged officer cites another charged officer as a witness, in proof of his defence, the enquiry need not per se be split up even when the charged officers would like to claim an independent enquiry in that behalf. If the procedure is adopted, normally all the delinquents would be prone to seek split up of proceedings in their/his bid to delay the proceedings, and to see that there is conflict of decisions taken at different levels. Obviously, disciplinary enquiry should not be equated as a prosecution for an offence in a criminal Court where the delinquents are arrayed as co-accused. In disciplinary proceedings, the concept of co-accused does not arise. Therefore, each of the delinquents would be entitled to summon the other person and examine on his behalf as a defence witness in the enquiry or summon to cross-examine any other delinquent officer if he finds him to be hostile and have his version placed on record for consideration by the disciplinary authority. Under these circumstances, the need to split on the cases is obviously redundant, time consuming and dilatory. It should not be encouraged. Accordingly, we do not find any illegality in the action taken.”

5. In this view of the matter, we do not propose to entertain the present petition at this juncture as the enquiry proceedings are pending.
6. It is open for the petitioner to raise all permissible defences in the enquiry proceedings. The petition is rejected.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)