

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO.123 OF 2024
IN
INTERIM APPLICATION (L) NO.11893 OF 2022
IN
SUIT NO.664 OF 2019**

The Bombay Presidency Radio Club
Ltd & Anr.

.. Appellants

Versus

Ravi Goenka

.. Respondent

Mr.Rajendra Raghuvanshi a/w Ratnesh Dube, Rubin Vakil, Rekha Jaswar i/b Deepali Kedar, Advocates for the Appellant.

Mr.Archit Jayakar i/b Jayakar and Partners, Advocates for Respondent.

Mr.Rahul Pratap Singh, Manager of B.P.R.C. present in Court.

Mr.Ravi Goenka, the Respondent present in Court.

**CORAM :B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE : APRIL 15, 2025

P. C.

1. The above Appeal challenges the impugned order passed by the learned Single Judge of this Court dated 9th June 2022. By the impugned order Interim Application (L) No.11893 of 2022 filed in the

above Suit was dismissed by the learned Single Judge. What the Interim Application sought was that the Ex-Principal District & Session Judge, Ex-Vice Chairman of Maharashtra Administrative Tribunal, Ex-Principal Government Law College, Mumbai be appointed as the new Inquiry Officer to conduct the inquiry with reference to the facts in issue.

2. Initially, the above Suit was filed by the Respondent challenging the actions taken by the Appellant – The Bombay Presidency Radio Club Ltd charge-sheeting the Respondent for certain alleged misdeeds committed by the Respondent. In the said Suit, the Respondent filed Notice of Motion (L) No.979 of 2019 seeking interim relief. In this Notice of Motion, the following order was passed:-

“1. After the matter was heard for some time, it was kept back to enable the Counsel to take instructions. When the Court assembled post lunch, Mr.Madon for defendants on instructions states that his instructions are to withdraw the charge-sheet and to commence fresh inquiry proceedings on the same charges so that plaintiff will also have no grievance that he has not been heard etc. The statement of Mr.Madon is accepted as an undertaking to this Court. Consequently, findings, orders passed etc. by the inquiry officer does not survive.

2. It is clarified that this Court has not made any observation in the subject matter of the suit.

3. *Mr.Madon states that in view of the above order the question of EGM of 27.4.2019 does not arise.*

4. *By consent, Mr.Justice S.J.Vazifdar (Retd.), former Chief Justice of Punjab & Harayana High Court and a former Judge of this Court, is appointed as the inquiry officer. The fees and expenses of the inquiry officer will be paid by defendant no.1.*

5. *Mr.Narichania for plaintiff states that plaintiff shall not question the jurisdiction of the inquiry officer but all other rights and contentions be kept open including the stand that plaintiff has not indulged in any misconduct as alleged or at all. All rights and contentions of both the parties are kept open.*

6. *Mr.Narichania seeks leave to withdraw the suit and the Notice of Motion. Both, Suit and Notice of Motion stand dismissed as withdrawn. Refund of court fees in accordance with Rules.”*

3. As can be seen from this Order, by consent, the Hon’ble Mr. Justice S.J.Vazifdar (Retd.), former Chief Justice of Punjab and Haryana High Court, and a former Judge of this Court, was appointed as the inquiry officer. Since the Hon’ble Mr. Justice S.J.Vazifdar was unable to take the assignment, the above Interim Application was filed seeking a substitution of the inquiry officer, and which was dismissed by the learned Single Judge vide the impugned order dated 9th June 2022.

4. After the above matter was heard for some time, the parties by consent, agreed that the Hon'ble Mr. Justice Rajesh Ketkar (Retd. Judge of the Bombay High Court), having his address at 202, Dalamal Chambers, Near Marine Lines, Churchgate, Mumbai, be appointed as the inquiry officer in place of the Hon'ble Mr. Justice S.J.Vazifdar (Retd). Accordingly Justice Rajesh Ketkar (Retd. Judge of this Court) is hereby appointed as the new inquiry officer.

5. The Appellant – The Bombay Presidency Radio Club Ltd., agrees and undertakes to this Court through Mr.Rahul Pratap Singh, the authorized representative who is present in this Court, that all the fees and all the expenses of any kind of the Enquiry Officer and the enquiry process including all other administrative expenses will be paid by the Appellant – The Bombay Presidency Radio Club Ltd only.

6. The Appellant – The Bombay Presidency Radio Club Ltd. agrees and undertakes to this Court through Mr. Rahul Pratap Singh, who is authorized and present in this Court, that if Respondent – Mr. Ravi Radheshyam Goenka, is exonerated of the charges by the Enquiry Officer, the Appellant – The Bombay Presidency Radio Club Ltd. shall not, under any circumstances, challenge the

findings/observations/Final orders/Directions of any kind/nature that may be passed by the Enquiry Officer, before any Court, Tribunal and/or Authority, competent to decide the same, and the Appellant – The Bombay Presidency Radio Club Ltd., shall accept the same unconditionally.

7. The Appellant – The Bombay Presidency Radio Club Ltd agrees and undertakes to this Court through Mr.Rahul Pratap Singh, who is authorized and present in this Court, that in case if the Enquiry Officer holds the Respondent – Mr. Ravi R. Goenka guilty of any charges, then for a period of 8 (Eight) weeks from the receipt of the Final Report by the Respondent – Mr. Ravi R. Goenka, the Appellant – The Bombay Presidency Radio Club Ltd., shall not take any action against the Respondent – Mr.Ravi R. Goenka of any kind whatsoever nature to enable him to challenge the findings of the Enquiry Officer before the Court having competent jurisdiction in the matter.

8. The Appellant – The Bombay Presidency Radio Club Ltd. through Mr.Rahul Pratap Singh, who is the authorized representative and present before this Court, agrees and undertakes to this Court that they have no objection of any kind if the Ld.Enquiry Officer fixes his

procedure, terms and conditions on which he shall hold the Enquiry including his fees/venue/administrative expenses/ charges and all other miscellaneous expenses of any kind that may be incurred by him during the course of the enquiry which shall be paid by the Appellant – The Bombay Presidency Radio Club Ltd. to the Enquiry Officer without any liability on the Respondent – Mr. Ravi R. Goenka.

9. All the rights and contentions of the respective parties are expressly kept open including the stand of the Respondent – Mr. Ravi R. Goenka, that the Respondent – Mr. Ravi R. Goenka has not indulged in any misconduct as alleged or at all.

10. All the undertakings are accepted by this Court.

11. It is needless to clarify that this order is passed without prejudice to the rights and contentions of both parties in any pending proceedings between them.

12. In light of what is stated hereinabove, the impugned order is hereby set aside and is now substituted by the present order. It is made clear that present inquiry shall be a fresh inquiry proceeding.

Therefore both parties will be entitled to lead whatever evidence they choose but on the same charges that have already been alleged against the Respondent.

13. The Appeal is disposed of in the aforesaid terms. However, there shall be no order as to costs.

14. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]