

WP(C) 1722/2006

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. P. Sarma, learned counsel for the petitioner as well as Mr. J. Singh, Sr. Standing Counsel, Railways, assisted by Ms. Manalisa Baruah, learned counsel

The petitioner is aggrieved by the Annexure-V memorandum dated 29.6.2005 issued to him by the Director, Railway Stores (IC), Railway Board, by which the petitioner was directed to submit representation, if any, against the proposed action to ban business dealings with the petitioner. Annexure-V memorandum dated 29.6.2005 was followed by Annexure-VII and IX letters dated 21.11.2005 and 20.1.2006 asking the petitioner to submit defence statement. It was at that stage, the writ petition was filed and this Court by order dated 22.3.2006 providing that the respondent would not take any further steps pursuant to the said Annexure-IX communication dated 20.1.2006. According to the petitioner, pertaining to the same matter as reflected in Annexure-V memorandum dated 29.6.2005, criminal proceeding is pending against the petitioner. In this connection, the petitioner has annexed the report bearing No. 18 dated 30.9.2002 in Case No. RC 1(A)/01-SHG.

Mr. Sarma, learned counsel for the petitioner submits that since a criminal proceeding is in progress, the respondents ought not to have issued the Annexure-V memorandum pertaining to the proposal for closure of business dealings with the petitioner. On the other hand, Mr. J. Singh, learned Sr. Standing Counsel, Railways submits that the proposed action of the Railways has got nothing to do with the criminal proceeding now pending against the petitioner.

The criminal proceeding pertaining to the particular criminal offence of the petitioner and irrespective to establishment of guilt against the petitioner, Railways are entitled to deal with the matter relating to business transaction with the petitioner appropriately as may be deemed fit by it, in its wisdom and jurisdiction. As in the case of departmental proceeding vis- -vis criminal proceeding and as has been held by the Apex Court in various decisions, mere pendency of a criminal proceeding may not be a bar for proceeding with departmental proceeding.

In the instant case, Annexure-V memorandum dated 29.6.2005 was issued to the petitioner asking him to submit representation against the proposed action to ban business dealing of the petitioner with the Railways. Needless to say that it is the goodwill and other attending circumstances, which come into play in respect of business transaction between two parties. I am of the considered opinion that the Railways is within its competence and jurisdiction to issue Annexure-V memorandum dated 29.6.2005.

The business dealing with the petitioner has not come to end. Only a proposal has been made to ban such transaction. By the said memorandum dated 29.6.2005, the petitioner was directed to make representation. I am of the considered opinion that it will be appropriate for the petitioner to respond to the said memorandum and submit his representation urging all such grounds as may be available to him.

In the event of response to the memorandum by submitting representation, the Railways will deal with the matter appropriately and in accordance with law.

With the above directions and observation, writ petition is disposed of. Interim order passed on 22.3.2006 stands vacated.