

IN THE HIGH COURT OF JHARKHAND AT RANCHI
WP(S) No. 3920 of 2013

Pradyuman Prasad Sah Petitioner
-Versus-
The State of Jharkhand and ors. Respondents

CORAM : HON'BLE MR. JUSTICE APARESH KUMAR SINGH

For the Petitioner :Mr. Atanu Banerjee
For the Respondents :M/s. Srijit Choudhary & Rakesh Kr. Shahi

2- 30.06.2014 Heard learned counsel for the parties.

The petitioner, who is the Superintending Engineer in the respondent-DVC, came before this Court with two folds prayer in the present writ application, inter alia:- (i) to direct the Central Vigilance Commission to take appropriate steps on his representation dated 2.1.2013 and provide him protection in terms of paragraph 7 of the Government of India (whistleblower) Resolution dated 21.4.2004 and (ii) for a direction upon the concerned respondents particularly the respondent no.2 not to harass and victimize him and allow him to function in a peaceful manner without undue interference.

According to the learned counsel for the petitioner he has been involved in exposing irregularities in the Corporation inter alia relating to award and execution of capital overhauling of Turbine, Generator etc. as also other acts being done by the various hierarchy of officers in the Corporation. It has been submitted by relying upon a report of the Vigilance Department of the Corporation that the Manager Vigilance as a matter of fact recommended to the Central Vigilance Commission to issue appropriate direction to the concerned authorities as DVC management was transferring the petitioner in a punitive manner.

Counsel for the petitioner submitted that the petitioner has been subjected to the departmental inquiry thereafter to which he has sought stay by filing I.A. No.7303 of 2013. It has been submitted that the attendant fact alleged in the writ petition show that the petitioner is being victimized for indulging in exposing the misdeeds in the respondent Corporation. The CVC may be directed to provide him protection and the inquiry initiated on 10.7.2013 may also be stayed.

In response counsel for the respondent Corporation has submitted that writ petition has been rendered infructuous as it had earlier been preferred

for seeking protection from the alleged punitive action of the respondent Corporation i.e. when he has been transferred from BTPS, Bokaro to DVC, Trichurapalli. However, it has been pointed out by referring to Annexure 5 series to the writ application, the office orders dated 12.12.2012 and 15.12.2012 that the said order of transfer has been modified and the petitioner has been posted at Durgapur Thermal Power Station, DVC, Durgapur. The aforesaid order has also been modified and the petitioner has again been posted at BTPS, Bokaro. It has further been submitted that the inquiry proceedings have been initiated by a memorandum dated 10.7.2013 on prima facie charges of misconduct against the petitioner, which is not under challenge in the present writ application. The petitioner, therefore, cannot seek stay of the said departmental proceeding initiated against him, which should be allowed to be completed in accordance with law by the competent authority of the respondent-Corporation. It is submitted that after the petitioner joined at the same place, his writ petition for payment of arrears of salary for the period he has not joined on the transferred place was dismissed by this Court as he has not discharged his duties for the said period.

Counsel for the petitioner, however, has reiterated the submission and submitted that the petitioner in such circumstances deserves protection under the resolution of the Government of India dated 21.4.2004 as he has been indulging in exposure of misconduct of the authorities of the respondent-Corporation.

I have heard counsel for the parties. During course of argument though repeated queries have been made to the learned counsel for the petitioner but he has not been able to demonstrate any reasonable nexus for initiation of the departmental proceeding against the petitioner on 10.7.2013 with the alleged acts said to have been undertaken by him in exposing certain irregularities against official of the respondent-Corporation. The said departmental inquiry has also not been challenged in the main writ application. Therefore, no stay of the said departmental inquiry can be allowed by way of interlocutory application preferred by him later on.

3.

On the other hand, it further appears from perusal of the relevant office orders dated 12.12.2012 & 15.12.2012 that after the report of the Vigilance Manager of the respondent-Corporation and indulgence by the Ministry of Power and CVC, the petitioner's transfer to Trichurapalli was modified and he has again been posted at Bokaro Tharmal Power Station, DVC, Bokaro. The prayer made in writ petition therefore, does not appears to warrant any interference in the aforesaid facts and circumstances.

In the facts and circumstances, this Court is not satisfied that any such relief can be granted in the said inquiry, which is not under challenge.

This writ petition is accordingly dismissed.

I.A. No.7303 of 2013 also stands dismissed.

(Aparesh Kumar Singh, J.)

Pandey