

THE HIGH COURT OF MEGHALAYA AT SHILLONG.

CONT.CAS(C) No. 12 of 2014

Shri Bingdon Syiemlieh,
Mylliem 11th Mile,
P.O. Nonglyer,
Upper Shillong – 793009,
East Khasi Hills District,
Meghalaya

..... Petitioner

-Versus-

1. **Shri Mukul Jeishi,**
The Chairman,
Meghalaya Rural Bank,
Head Office,
MTC Building,
Shillong - 793001
2. **Shri. Nicholas Khyriem,**
General Manager,
Meghalaya Rural Bank,
Head Office,
MTC Building,
Shillong - 793001

..... Respondents

BEFORE THE HON'BLE MR JUSTICE SR SEN

For the Petitioner : Mr. S. Chakravarty, Advocate

For the Respondent s : Mrs. T. Yangi, Adv.

Date of hearing : **24.02.2015**

Date of Judgment & Order : **18.03.2015**

JUDGMENT AND ORDER

The petitioner approached this court by way of a contempt petition. The whole issue involved as both the petitioner as well as the contemnor respondents got confused by the judgment passed by this court in WP(C) No. 56(SH) of 2009 wherein, the learned Single Judge of this court had quashed the dismissal order dated 05.02.2008 as well as the resolution of the appellate authority dated 21.08.2008 and order for reinstatement of the petitioner. Accordingly, the petitioner was reinstated. But, the whole confusion arises at the last Para. The learned Single Judge of this court has mentioned "*It shall, however, be open to the Bank to proceed against the petitioner in accordance with the procedure laid down by the Apex Court in **Managing Director, ECIL Ltd. Versus B. Karunakar, (1993) 4 SCC 727***".

2. Mr. S. Chakravarty, learned counsel appeared for and on behalf of the petitioner argued that, as per his understanding, a fresh inquiry should start from the stage of furnishing the inquiry report, and no fresh inquiry to be held from inception.

3. Mrs. T. Yangi, learned counsel appeared for and on behalf of the contemnor respondents submits that, since the earlier inquiry report is quashed, a fresh inquiry is to be done from the beginning, and that is what exactly they understand from the judgment.

4. I have perused the judgment passed by the learned Single Judge in WP(C) No. 56(SH) of 2009 wherein, it appears that the learned Single Judge came to the conclusion that the departmental inquiry was totally faulty and against the principle of natural justice. Hence, he could not accept the earlier inquiry report and came to the conclusion and ordered for reinstatement.

5. After hearing the rival submissions advanced by the learned counsel, and after going through the judgment of the ***Managing Director, ECIL Ltd. Versus B. Karunakar, (1993) 4 SCC 727*** at Para 31 Hon'ble the Apex Court has quoted *"The reinstatement made as a result of the setting aside of the inquiry for failure to furnish the report, should be treated as a reinstatement for the purpose of holding the fresh inquiry from the stage of furnishing the report and no more, where such fresh inquiry is held. That will also be the correct position in law"*.

6. So, from the language used by Hon'ble the Apex Court, to my humble understanding, a fresh inquiry need to be initiated from the stage of furnishing the report. In other words, it is the stage from where inquiry became faulty or mistake had begun; no new chapter to be opened. I am of the view that, this much explanation is enough to suffice the purpose to settle the confusion.

7. Before I part with this case, I also observed that the petitioner's counsel should not have filed contempt case as there is no intention and violation of the order of the court. It is a mere misconception. He could have filed a separate writ petition or Misc. Case. However, I am not stretching much on these technicalities and disposed of this matter with the above observation.

8. The matter stands disposed of.

9. No order as to costs.

JUDGE

D. Nary

