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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 142/2024 & CM APPLs. 5528-5529/2024**

SAMEER DNYANDEV WANKHEDE

..... Petitioner

Through: Mr. Ravi Sikri, Senior Advocate with
Mr. Sachin Midha and Mr. Aditya
Vikram Bajpai, Advocates.
(M): 9810099414
Email: midha.sachin@yahoo.com

versus

MR GYANESHWAR SINGH & ORS.

..... Respondents

Through: Mr. Chetan Sharma, ASG with
Mr. Kirtiman Singh, CGSC, Mr. Ravi
Prakash, CGSC, Mr. Amit Gupta,
Mr. Varun Pratap Singh, Mr. Varun
Rajawat, Mr. Amit Sharma, Ms. Astu
Khandelwal, Mr. Vikramaditya
Singh, Ms. Astuti Khandelwal and
Mr. Kirtiman Singh, Advocates for
respondent/UOI.
(M): 9355665877
Email: raviprakash1099@gmail.com
Mr. Aalok Kumar, Advocate with
Mr. Abhishek Singh, GPfor
respondent no. 3
(M): 9953495600
Email: asingh.legal@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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31.01.2024

CM APPL. 5528/2024 (for exemption)



1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.

CONT.CAS(C) 142/2024 & CM APPL. 5529/2024

3. The present contempt petition has been filed with the following prayers:-

“a) Initiate appropriate Contempt of Court proceedings against the Respondents herein and prosecute and punish it / its concerned official(s) / director(s) in accordance with the provisions of Contempt of Courts Act for intentionally, deliberately and wilfully committing contempt of the order dated 21.08.2023 passed by the Hon’ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 3722 of 2022;
b) Quash the communications dated 11.08.2023, 14.08.2023 and 21.11.2023 and all consequential actions arising therefrom being vitiated and manifested with ill intentions and mala fides attributable to Respondent No. 1;
c) Direct the Pro Forma Respondents their servants, agents and officials to cease and desist from proceeding against the Petitioner in any manner without following the Orders of CAT and NCSC”

4. It is submitted that the petitioner is an Indian Revenue Service (IRS) Officer and currently posted as Additional Commissioner under the Department of Revenue, Ministry of Finance.
5. Learned senior counsel for the petitioner submits that the petitioner while working as Zonal Director, Narcotics Control Bureau (“NCB”) received some information, on the basis of which a raid was conducted at Cordelia Cruise and as a result of the raid, *Crime No. 94/2021* was registered by NCB, Mumbai.
6. At the relevant time when *Crime No. 94/2021* was registered, one, Mr. Ashok Mutha Jain was working as Deputy Director General (“DDG”), South-West Region, NCB. Since, Mr. Ashok Mutha Jain was on leave for the period between 04th October, 2021 and 08th October, 2021, the additional charge to look after the work of DDG, South-West Region, NCB was



assigned to respondent no. 1, Mr. Gyaneshwar Singh, DDG, Northern Region, NCB.

7. It is submitted that the said respondent, in his capacity as in-charge of DDG of South-West Region, NCB actively supervised the investigation under the aforesaid crime and prepared the plan of action in respect of the investigation of the crime in question and forwarded it to the petitioner through Whatsapp on 12th October, 2021.

8. It is submitted that certain allegations were made against the petitioner in respect of the manner in which he conducted the raid/investigation. Accordingly, the Competent Authority in the NCB formed a Special Enquiry Team (“SET”) to enquire into the allegations levelled against the petitioner with respect to the aforesaid crime.

9. It is submitted that the SET was ordered and conducted under the Chairmanship of respondent no. 1, although he himself was supervising the investigation in the *Crime No. 94/2021*.

10. It is submitted that the said inquiry was vitiated as the said respondent could not have been the judge of his own cause. Therefore, the SET report dated 16th June, 2022 and all the consequential actions were challenged by the petitioner in Central Administrative Tribunal (“CAT”) by means of *O.A. No. 3722/2022*.

11. It is submitted that by order dated 20th December, 2022, the learned CAT granted an *ad-interim* protection to the petitioner to the effect that before taking any action against him on the basis of the said SET report dated 16th June, 2022, the Department of Revenue, Ministry of Finance, shall grant a personal hearing to the petitioner. However, overlooking the order of learned CAT, the Central Bureau of Investigation (“CBI”)



registered an F.I.R. dated 11th May, 2023 against the petitioner entirely relying upon the SET report, which was impugned in the *O.A. No. 3722/2022* by the petitioner.

12. It is submitted that vide judgment dated 21st August, 2023 in *O.A. No. 3722/2022*, the learned CAT observed that respondent no. 1, Mr. Gyaneshwar Singh, being actively involved in the investigation could not have been part of the SET, which was constituted to hold an enquiry for the alleged procedural lapses on the part of the officials during the seizure. Further, the learned CAT also directed that an opportunity of hearing is to be afforded to the petitioner before taking any action.

13. It is further submitted that Union of India (“UOI”) and NCB filed review against the above-mentioned decision of the CAT, which was also dismissed vide order dated 13th October, 2023.

14. It is further submitted that the petitioner filed another writ petition being *W.P. (C) No. 14357/2023* in this Court seeking a direction to the National Commission for Scheduled Caste (“NCSC”) to act on the complaint lying pending with it. The said petition was disposed of thereby requesting the Commission to consider the application of the petitioner and dispose of the same in an expeditious manner.

15. It is submitted that the NCSC heard the matter and gave serious observations and recommendations against Gyaneshwar Singh. However, still the petitioner is being victimised and being told that complaints are being given to Enforcement Directorate to act on the basis of the FIR of the CBI as a Scheduled Offence. Thus, the present petition has been filed.

16. Attention of this Court has been drawn to the order dated 20th December, 2022 passed by the learned CAT, where there was specific



direction with respect to granting personal hearing to the petitioner.

17. Learned senior counsel for the petitioner has drawn the attention of this Court to the notice dated 21st November, 2023 issued by the NCB, Ministry of Home Affairs, Government of India, to the petitioner. Thus, he submits that the petitioner is still being harassed despite the order passed by the learned CAT dated 21st August, 2023 and order dated 21st November, 2023 passed by the NCSC.

18. Per contra, vehemently disputing the maintainability of the present petition, learned Additional Solicitor General (“ASG”) assisted by Mr. Kirtiman Singh, Central Government Standing Counsel, submits that the present petition is a misuse of process of law. He submits that the present petition has been filed for disobedience of the order dated 21st August, 2023 passed by the learned CAT. He submits that as far as any allegation with respect to any disobedience of the order by the learned CAT is concerned, learned CAT itself has the jurisdiction to entertain matters, where contempt of its orders have been committed.

19. Learned ASG relies upon the judgment of Division Bench of this Court in the case of *Court on its Own Motion Versus Re: Mehmood Pracha, 2019 SCC OnLine Del 8814*. By reference to the aforesaid judgment, it is submitted that the learned CAT itself has the power and authority to decide and hear the matters which are covered under Section 14(1) of the Administrative Tribunals Act, 1985 which specifically confers the power and jurisdiction on the Administrative Tribunals under Section 17 with respect to dealing with matters where contempt of its orders have been committed.

20. Learned ASG also draws the attention of this Court to the



communications dated 11th August, 2023 and 14th August, 2023, qua which prayer has been made in the present petition for quashing. He submits that both the aforesaid communications pre-date the order dated 21st August, 2023 passed by the learned CAT. Therefore, he submits that the very prayer made in the present petition is misplaced.

21. He also draws the attention of this Court to the communication dated 21st November, 2023 in order to show that the said investigation pertains to some other case. It is submitted that the subject matter before the learned CAT in order dated 21st August, 2023 was *Crime No. 94/2021*. However, the subject matter of the aforesaid notices dated 11th August, 2023, 14th August, 2023 and 21st November, 2023 does not pertain to *Crime No. 94/2021*. Therefore, it is submitted that not only is the present petition not maintainable, the present petition is also an abuse of process of law and ought to be dismissed with heavy costs.

22. It is also submitted by learned ASG that at the time of issuance of aforesaid notices dated 11th August, 2023 and 14th August, 2023, the matter before the learned CAT was still pending. Therefore, if the petitioner had any grievance with respect to any violation being made by the respondents of any order passed by the learned CAT, then such grievance ought to have been raised before the learned CAT at that point of time, which was never done by the petitioner.

23. It is further submitted that the order of the learned CAT in which it has been directed that notice shall be issued to the petitioner before any action is taken against him, pertains to Central Board of Indirect Taxes and Customs, which was a party before the learned CAT as respondent no. 5. However, the aforesaid body has not been made a party in the present



proceedings.

24. It is further submitted that the whole intent of filing the present petition is to stall the proceedings which are pending before the NCSC. It is further submitted that no violation of any order of either learned CAT or NCSC has been done.

25. At this stage, Mr. Ravi Sikri, learned senior counsel appearing for the petitioner submits that in view of the legal position, he may be granted liberty to approach the learned CAT.

26. I have heard learned counsel for the parties and have perused the record.

27. At the outset, this Court notes that the prayer made by the petitioner essentially is with respect to the allegation of the petitioner that there is willful disobedience by the respondents, of the order dated 21st August, 2023 passed by the learned CAT in *O.A. No. 3722/2022*. As pointed out by learned ASG, the subject matter of the proceedings before the learned CAT in *O.A. No. 3722/2022* pertained to *Crime No. 94/2021*. The relevant portion of the order dated 21st August, 2023 passed by learned CAT in *O.A. No. 3722/2022* is reproduced as under:-

“xxx xxx xxx

3. The applicant, while working as Zonal Director, NCB, received some information, on the basis of which a raid was conducted at Cordelia Cruise and as a result of it, Crime No. 94/2021 was registered by NCB, Mumbai. From the record, it transpires that certain allegations were made against the applicant in respect of the manner in which he conducted the raid/investigation. Accordingly, the Competent Authority in the NCB formed a SET to enquire into the allegations levelled against the applicant with respect to the aforesaid crime. SET prepared its report and forwarded the same to the Competent



*Authority. The said Report along with all the documents as annexed therewith, was forwarded by the Competent Authority of NCB to Ministry of Home Affairs (MHA), i.e., the respondent No. 3 herein. The said preliminary report, thereafter, along with the draft charge-sheet proposing major penalty in RDA proceedings was forwarded by the MHA on 27.09.2022 to the disciplinary authority of the applicant, i.e., Central Board of Indirect Taxes and Customs (CBIC), the respondent No. 5 herein, for taking necessary action against him. As stated earlier, this SET Report is under challenge in the present OA.
xxx xxx xxx”*

28. This Court also notes that the notice dated 11th August, 2023 pertains to investigation in other cases and not *Crime No. 94/2021*. The notice dated 11th August, 2023 issued by the NCB, Ministry of Home Affairs, Government of India is reproduced as under:-

*“F.No. II/3(6)/2021/Vig. - 281
Government of India
Ministry of Home Affairs
Narcotics Control Bureau, West Block-I,
Wing No.5, R K Puram, New Delhi- 110066*

Dated: 11.08.2023

*To,
Sh. Sanjay Kumar Singh, IPS,
The Deputy Director General (SWR),
Narcotics Control Bureau.*

Sub: Enquiries in the matters:

- 1) PE in the Crime No. 56/2021 and 61/2021 of Mumbai Zonal Unit;***
- 2) PE in the Crime No. 24/2020 of Mumbai Zonal Unit***

With reference to our office letter F.No. II/3(6)/2021/Vig-1433 dated 11.08.2022, Sh. Mutha Ashok Jain, the then DDG(SWR) was nominated to conduct enquiry in the above 2 subject matters but he could not conclude the final report as he got repatriated to his parent cadre on 23.09.2022 after completion of his tenure in NCB. After that Sh. Sachin Jain was posted as DDG (SWR).

2. In the matter of Cr. No. 24/2020: *Vide letter F. No. 111/1(114)/Vig/DDG/SWR/2021/443 dated 24.07.2023 received from Sh. Sachin Jain, DDG (SWR) it was intimated that in the matter of Cr.*



No.24/2020, Sh. Mutha Ashok Jain, IPS, the then DDG (SWR) had recorded statements of all concerned persons but final conclusion of enquiry is still pending. He had requested for change in the nomination of the officer conducting the said enquiry as the same was marked to Sh. Ashok Mutha Jain. Accordingly the Competent Authority has now approved conducting of an enquiry by your good self.

3. The facts in brief were that Kunal Jani was arrested in the Mumbai Case No. 24/2020 in the month of October, 2021. The first complaint filed in this: case does not mention anything about Kunal Jani. The incriminating evidence against him would be his acceptance that he has consumed cocaine in year 2018. Further, he was already examined by the NCB Mumbai in the Case no. 15 of 2020 where in also he gave his statement and he was allowed to go by NCB. No recovery was made from him. There appears to be no explanation as to why such an action was taken by the Zone and the matter needs to be enquired more. The substance of the enquiry is enclosed herewith.

4. **In the matter of Cr. No. 56/2021 and 61/2021:** Vide letter F. No.111/1(114)/Vig/DDG/SWR/2021/444 dated 24.07.2023 received from Sh. Sachin Jain, DDG (SWR) it was again intimated that for change in the nomination of the officer conducting the said enquiry may be done as the same was marked to Sh. Ashok Mutha Jain.

5. The substance of the enquiry in **Cr. No. 56/2021 and 61/2021** was that the name of one Sanville D'Souza came up as an accused in Cases 56 of 2021 and 61 of 2021 of the NCB Mumbai. Sh. Sanville D 'Souza was only given a notice to appear in the case no. 61 of 2021 but there was no further course of action. It appears that Sh. Sanville was given some benefits by the Zone and the matter needs to be enquired further.

7. The Competent Authority has now approved conducting of an enquiry in the matter corroborating given over enquiry report of Sh. Mutha Ashok Jain, IPS in your enquiry. Any involvement of any other officers of NCB in corrupt/irregular and improper activities pertaining to above said case may also be enquired.

In view of the above, you are hereby requested to conduct an enquiry in above said matter and submit a report within 14 days.

(Gyaneshwar Singh)
DDG (OEC)/CVO”

29. Similarly, the communication dated 14th August, 2023 again pertains to investigation in other cases and not *Crime No. 94/2021*. The communication dated 14th August, 2023 issued by the NCB is reproduced as under:-



“ गृह मंत्रालय
नारकोटिक्स कंट्रोल ब्यूरो
वेस्ट ब्लॉक 1, विंग नंबर 5
आर.के. पुरम, नई दिल्ली

F.No. II/6(6)/2021/VIG/287

दिनांक: 14.08.2023

सेवा मे

*Sh. Sanjay Kumar Singh,
Deputy Director General (SWR),
Narcotics Control Bureau.*

***Sub: Enquiries in the matter of complaint forwarded by Nawaab
Malik in Crime***

महोदय

Kindly find enclosed herewith a copy of the complaint forwarded to the NOB stating about irregularities in the some of the NCB Mumbai cases. In this respect it is stated that in an enquiry had been done by Sh. Ashok Jain, the then DDG (SWR) in a similar matter i.e. Crime No. 80/2021 and found some irregularities.

2. In view of the above, it has been decided by the competent authority that the further enquiry be conducted in the following Crime Nos 16/2020, 03/2021,06/2021,9/2021,18/2021,24/2021,27/2021,28/2021,29/2021,30/2021,31/2021,32/2021,33/2021,40/2021,44/2021,49/2021,51/2021,60/2021,63/2021,71/2021,077/2021,88/2021.

Thus, it is requested that the further comprehensive enquiry may be done in the matter and responsibility of officers / officials if any for the misconduct/ lapse as well as failure of supervision may be fixed.

Encl: As above

DDG (OEC)/CVO”

30. Perusal of the aforesaid clearly shows that the aforesaid communications have not been issued to the petitioner, but rather to a third party viz. Sanjay Kumar Singh, Deputy Director General, South West Region, NCB. Further, the aforesaid communications pertain to investigation with respect to other cases and not *Crime No. 94/2021*.

31. It may also be noted that notice dated 21st November, 2023 issued by



the NCB again relates to *Crime No. 4/2021* and not *Crime No. 94/2021*. Thus, the aforesaid communication again pertains to some other investigation, which was not subject matter before the learned CAT. The notice dated 21st November, 2023 issued by the NCB is reproduced as under:-

*“Govt, of India, Ministry of Home Affairs, Narcotics Control Bureau
O/o The Deputy Director General (S.W.R), 3rd Floor. Exchange Building.
Ballard Estate, Mumbai-400001*

Tel 022-22620061(O),

F. No. III/1(109)/ Enq/DDG/SWR/2021/853

Date: 21.11.2023

NOTICE

To.

*Sh Sameer Wankhede,
Ex Zonal Director, NCB, Mumbai*

***Sub:-Appearance before the undersigned at the office of DDG (SWR),
NCB With respect to enquiry in complaint received from NCB Hqrs,
New Delhi-reg.***

The undersigned is conducting an enquiry into allegations with respect to the complaint received from NCB HQrs, New Delhi in Cr. No. 04/2021 of NCB, Mumbai Zonal Unit.

*2. You are hereby requested to appear before the undersigned at the following address on **28.11.2023, at 1130 Hrs -***

***O/o The Deputy Director General (SWR)
Narcotics Control Bureau,
3rd Floor, Exchange Building.
Ballard Estate, Mumbai -400001.***

*(Sanjay Kumar Singh, IPS)
Deputy Director General (SWR)
NCB, Mumbai*

CC: Zonal Director, Mumbai Zonal Unit with instructions to ensure service of the above notice and report.”

32. At this stage, Mr. Ravi Sikri, learned senior counsel appearing for the petitioner submits that the SET which was subject matter before the learned CAT in *O.A. No. 3722/2022*, not only pertained to *Crime No. 94/2021*, but also pertained to other investigations being carried out against the petitioner.



For this purpose, he relies upon the counter affidavit filed on behalf of the respondent before the learned CAT. Though the aforesaid counter affidavit has not been filed in the present proceedings, learned counsel has produced the same before this Court at the time of hearing. He relies upon paragraph 19 of the said reply, which is reproduced as under:-

“19. The deponent states that the SET which was formed vide order dated 25.10.21 to enquire into the allegations levelled through an affidavit with respect to the case Cr. No. 94/21, investigated the various complaints and allegations as made/levelled against the applicant which included procedural lapses in conducting of the investigation of the matter, violation of the CCS (Conduct) Rules and complaints/cases pertaining to corruption/disciplinary matters. The said committee gave its report on 28.05.22 and submitted the same to the DG, NCB. The said report contained voluminous evidences against the applicant and his team and ranging across various issues as mentioned hereinabove.”

33. Considering the aforesaid detailed discussion, this Court is of the view that the present petition is not maintainable before this Court.

34. However, petitioner is granted liberty to approach the learned CAT for redressal of his any grievances.

35. Further, it is clarified that this Court has not commented on the merits of the case of the petitioner or of the respondents. The rights and contentions of both the parties are left open, which shall be adjudicated by the learned CAT, without being influenced by any observation made in the present order.

36. The present petition is disposed of, with the aforesaid directions.

MINI PUSHKARNA, J

JANUARY 31, 2024

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