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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 876/2010

M L MEENA

..... Petitioner

Through: Mr. Abhinav Prakash, Adv.
with petitioner in person.

versus

STATE THR.CBI

..... Respondent

Through: Mr. Vikas Pahwa, Standing
Counsel with Mr. Biswajit
Kumar Patra, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

02.06.2010

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1. I have examined the report/order sheet of the vigilance section relied upon by the counsel for the petitioner. The report/order sheet was probably prepared in the year 1996. The report states that a complaint was received from one Mr. R.K. Singh of Noida, making allegations that the complainant-petitioner herein, while working as ADG, G.M.S.D., Delhi, had favoured one Mr. Hans Raj and his company/associates and had made purchases at higher costs without issuing tender inquiries.

2. The report/order sheet records the allegations in the complaint as under:-

1. "Shri. Meena favours one Mr. Hansraj and his companies/associates e.g. he is promoting the interest of firm M/s Harjeet Enterprises, which is distributor of companies of Mr. Hansraj, Shri. Meena purchases bracketed items for CGHS at higher costs without issuing tender inquiries. He is purchasing product of his favourite companies (e.g. Richimol, Richimox) by misrepresenting the facts.

2. He is passing the current bills of his favourite companies where bill worth Rs. 25 crores are pending in the depot.
 3. The stores of favorite parties of Shri. Meena are being issued first so as to go more order in their favour. This results in expiry on short life product of other firms.
 4. Sh. Meena is interested in purchasing only proprietary items and does not procuring generic items and issues non availability certificate in respect of generic items. The CGHS the largest indenter of depot has not been supplied 30% requirement.
3. The said Mr. R.K. Singh it later on transpired was a fictitious person. Comments of the petitioner were called for. The brief of comments of Sh. Meena vis-à-vis allegation were recorded in the report/order sheet as under:-

“1. Depot has to make supply of bracketed items in equal proportion as per the decision of CGHS so that if one particular bracketed items does not give proper response to any particular patients the CGHS dispensaries should have other bracketed items for issue to the concerned patient. As such the depot is bound to comply with the advice of CGHS to supply the items as per their direction and depot cannot purchase and supply only one of the bracketed items. A copy of the CGHS’s letter in this regard has been enclosed by Sh. Meena.

As per the depot records no firm under the name of M/s Harjeet Enterprise is having any business with the depot. As regards the allegation regarding purchases of Richimol Richimox Sh. Meena has stated that:

“The complainant has given the facts for the period 94-95 of my predecessor Sh. Viswa Vibhuti by making false malafide complaint against me and wrongly implicating me in the complaint. It is truly analysed the whole position is furnished below and thus this complaint should have been against Sh. Viswa Vibhuti as he in his time obtain sanction of the DTe during 94-

95 for tab. Richimol and Cap. Richimox by furnishing false information in the column of 5 LPP's during 1944-1995. Depot stated that items were required for supply of CRPF, BSF and Delhi hospitals and whereas the supply has been made to CGHS and not to these Indentors even in small quantities during 94-95. As the LPPs are sent to the DTe. after duly verifying the facts by the DM Dr. A.K. Singh who is overall responsible for stores issued to the indentors. Hence Dr. A.K. Singh D.M. is directly responsible for reflecting the correct information in the LLPs but he failed by giving wrong information on these LPPs and I am afraid there may be many more cases of this type of twisting the facts. In fact this complaint should have been against Dr.A.K. Singh and Sh. Viswa Vibhuti. Sh. Meena has stated that the Delhi depot has purchased Tab Richimol and Cap Richimox in my tenure after obtaining sanctions of the Directorate at the same rate at which they were purchased by Sh. Viswavibhuti and also at the rates already sanctioned by the DTe. and Depot has not allowed any increased in rates in these purchases.

2.Bills are to be passed by AO who is DDO of the depot AO send the bills to PAC for issue of cheque to the concerned Firm. Sh. Meena has stated that when he took over the charge in March 1995 he apprised the DTe, of alarming position of pending liabilities but no additional funds were sanctioned. A copy of letter no. Acctt/Budge/94-95/32395 and of his letter no. GMSD/MD/PF/MLM/9 dated 14.9.95 addressed to Dr. P.C. Rai, former Addl.Dg explaining detailed circumstances creating huge liabilities by Sh. Viswavibhuti, has been enclosed by Sh. Meena.

3.Stocks are being issued from drugs section made the supervision of Dr.A.K. Singh, D.M. Moreover the supplies are issued strictly on the principle of first come first out basis from stocks except where the remaining life of the item is very small and also in case where indentors prescribe specific conditions.

Sh. Meena has pointed out that:

“Several items are lying in the depot nearing expiry or life expire due to reasons that prior to my taking over charge of Delhi depot these items had been purchased by Mr. Viswavibhuti and the then depot Manager Dr. A.K. Singh without any firm demand and without taking into consideration the fact of limited shelf life of the produce. This was informed to MSO vide GMSD, Delhi letter No.A/Expired/15-96/18631 dated 4.10.95. It was mentioned therein that the total approx. cost of life expired during lying in the depot as on 31.1.94 and 31.3.95 is Rs. 42,89,776,96 and Rs. 45,65,437.17 respectively.

4.The depot has purchased the proprietary as well as generic items in proper rational as the demand/requirement of the indentors. The supply position to CGHS is 80% and Addl.Dir,CGHS has expressed his satisfaction on the supplies made by the depot.

4. On the basis of the reply/note given by the petitioner, the report records as under:-

“It may thus be seen from the above that there is no weightage in the allegation against Shri Meena. The complaint against him may therefore be treated as closed.

However the facts pointed out by Shri Meena against Shri Viswa Vibhuti and Dr.A.K. Singh are serious enough and can not be ignored. Owing to this we may call for from MSO Original LPPs (at X above) so as to reach the truth. We may also ask the action taken by MSO on Shri Meena’s letter No.A /Expired/95-96/18631 dated 4.10.95. (at Y above).”

5. I do not think the aforesaid recording/observations can be regarded as an adjudication or finding in any departmental proceedings exonerating the petitioner on the same charges on which charge sheet has been filed. Charge sheet filed against petitioner is fairly in detail and specific. In the charge sheet it is stated that the petitioner had entered

into a criminal conspiracy with M/s. Richie Lab (P) Ltd. and Proprietor of M/s. Harjeet Pharma, Distributor of M/s. Richie Lab for supply of Tablet Richimol Plus to CGHS instead of supplying Tablets Emflam Plus and Combiflam which were cheaper and thus causing wrongful loss of Rs.15 lacs to the Government and corresponding wrongful gain to themselves. It is further alleged in the charge sheet that 10 lac tablets of Richimol Plus were purchased on a demand made by Central Jail on 4th May, 1995 whereas the Central Jail had requisitioned for 3 lac Tablets. Again in 1996, 10 lac tablets of Richimol Plus were purchased for Lady Harding Medical College and LNJP Hospital, though no such demand and indent were raised by these hospitals. It is also alleged in the charge sheet that the Tablets of Richimol Plus were not required to be purchased as sufficient stock of Tablet Combiflam and Tablet Emflam Plus were available. The charge sheet records the difference in rates/prices of the said medicines.

6. It is clear from the charge sheet that the allegations were different, specific, particular and detailed and are not based upon letter of one Mr. R.K. Singh. The allegations made in the said letter were unclear, ambiguous and general. The observations made by the Vigilance Section, which were not based on a detailed inquiry but only on a letter which was found to be written by a non-existing person and the written response of the petitioner, do not justify quashing of the criminal prosecution and the charge sheet.

7. Learned counsel for the petitioner has also relied upon the letter dated 8-9th August, 2007 written by the Central Bureau of Investigation in response to an application under the Right to Information Act, 2005. Learned counsel for the petitioner has referred to paragraph 2 of the said letter, which reads as under:-

“ 2 The file No.SA/SUII/1996-011 whose noting

has been requested was opened on 24.4.1996 and closed on 20.3.1998 after completion of necessary action. The retention period of such files is five years after closure of the matter as laid down in CBI circular No.37/1/80-PD dated 27.3.1981. As such the said file has been weeded out in 2004. Hence, the requested information cannot be made available.”

8. The aforesaid communication and information is not a good ground to quash the charge sheet. The letter merely records that one file which was closed on 20th March, 1998 has been weeded out. We do not know the contents of the file, what was examined and decided. This was an internal matter of the respondent.

9. At this stage, learned counsel for the petitioner states that charge sheet was filed in 2002 but till date even charge has not been framed and arguments on charge are yet to be addressed. It is stated that the petitioner is already 59 years old and will retire next year. It is open to the petitioner to point out the aforesaid facts to the learned trial court and request for expeditious disposal.

10. Keeping in view the aforesaid facts, the present petition is dismissed. Observations made in this order are for deciding the present petition and any expression of opinion on merits is not binding on the trial court.

SANJIV KHANNA, J.

JUNE 02, 2010
J/VKR