

SUPREME COURT OF INDIA

Rajnit Prasad

Vs.

Union of India

S.L.P.(C) CC No.6033 of 1998

(S. Saghir Ahmad and D. P. Wadhwa, JJ.)

11.01.2000

ORDER

1. Dr. U. N. Biswas, IPS, who is the Joint Director, CBI, Calcutta was issued a charge-sheet for departmental action. The article of charge read as follows :-

"Dr. U. N. Biswas, IPS (WB : 68) while posted as Joint Director (East) CBI, Calcutta and during the course of supervision of AHD cases of Bihar failed to maintain absolute devotion to duty and committed gross misconduct inasmuch as he acted irresponsibly and in excess of his authority in a manner unbecoming of a manager of the All India Services in that :

On 29/20-7-1997, he on his own and without prior approval and authorisation from the Director, CBI and without justification and authority and in violation of law for calling army help in aid of civil authority had initiated and pursued steps for deployment of the army in the matter of execution of non-bailable warrant issued by the Special Court against Shri Laloo Prasad Yadav, Ex. Chief Minister of Bihar, who figured as accused in CBI Case No. RC-20(A)/96-PAT. In pursuance of his illegal orders SP, CBI, AHD Patna, Shri VSK Kaumudi submitted a written requisition to the local

army authorities on 30-7-1997 morning for deployment of army personnel for execution of non-bailable warrant of arrest against Shri Laloo Prasad Yadav at Patna. This direction given by Dr. U. N. Biswas to his subordinate authorities was illegal and reflected lack of knowledge and was an exercise in excess of his authority and he thereby displayed lack of devotion to duty and contravened the provisions of Rule 3(1) of the All India Services (Conduct) Rules, 1968."

2. The statement of imputation in support of article of charge was as follows :-

"That Dr. U. N. Biswas, IPS (WB : 68) Joint Director (East), CBI, Calcutta since 25-7-1994 and 30-7-1997 while posted and functioning as such. It was his duty to act as per laid down rules and procedures and do all important official business by keeping his superior officers informed as per existing instructions in this regard, being a member of the disciplined force but he failed to do so as much as :-

"that Dr. U. N. Biswas, IPC (WB : 68) Joint Director (East), CBI, Calcutta who was posted since 25-7-1994 as JD (East) with HQ at Calcutta and on 30-7-1997 in order to execute non-bailable warrant against Shri Laloo Prasad Yadav, Ex. Chief Minister against whom charge-sheet had been filed by the CBI instructed S/Shri VSK Kaumudi, SP, AHD, Patna and Rakesh Kumar, Standing Counsel to seek help of the army which was not at all warranted and contrary to the law laid down for use of armed forces in aid to civil authorities, the execution of Non-Bailable warrant is not a purpose for which army assistance can be called. Moreover, this was done despite DIG, AHD, Patna, Shri R. N. Kaul's verbal request to him asking not to call the army in such manner without consulting the Director, CBI to which Dr. U. N. Biswas did not pay heed and pursued for the steps for requisitioning the army unauthorisedly and thereby displayed lack of knowledge, insubordination and committed misconduct in violation of Rule 3(1) of the All India Services (Conduct) Rules, 1968."

3. Dr. Biswas approached the Central Administrative Tribunal for quashing the article of the charge but the petition was dismissed. He then approached the High Court by a writ petition which was allowed by the High Court by its impugned judgment dated 29-4-1998* and the charge-sheet issued to him was quashed.

* Reported in (1998) 2 Cal WN 34.

4. The present petitioner before us Mr. Rajnit Prasad is a practising Advocate at Patna who was not a party either before the Central Administrative Tribunal or before the High Court. By order dated 26-10-98 notice was directed to be issued to the respondent only on the question of "locus standi" of the petitioner.

5. The background of the case in which the charge-sheet was issued to Dr. Biswas for departmental proceedings has been set out in the special leave petition. It is contended that having regard to the nature of the case, he being a member of the public, can file the present petition and question the legality of the order passed by the High Court. For this purpose, he has placed reliance upon the decision of this Court in *S. P. Gupta v. U.O.I.* 1981 (Supp) SCC 87 : (AIR 1982 SC 149). He draw our attention to the observation of this Court on page 211 of the said decision and further to the observation of the Court in para 23 of the said case which, inter alia, laid down as under :-

"23. We would therefore, hold that any member of the public having sufficient interest can maintain an action for judicial redress for public injury arising from breach of public duty or from violation of some provision of the Constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision. This is absolutely essential for maintaining the rule of law, furthering the cause of justice and accelerating the pace of realisation of the constitutional objectives....."

6. It is on the basis of this judgment that he contended that the petitioner can institute the present petition in this Court. We are not impressed by this argument.

7. Why Mr. S.P. Gupta, an advocate of the Allahabad High Court, was permitted to file a petition in Public Interest has been set out in that judgment. It was observed :-

"Practising lawyers have undoubtedly a vital interest in the independence of the judiciary; they would certainly be interested in challenging the validity or constitutionality of an action taken by the State or any public authority which has the effect of impairing the independence of the judiciary."

It was further observed :-

"Lawyer's profession was an essential and integral part of the judicial system; they could figuratively be described as priests in the temple of justice. They have, therefore, a special interest in preserving the integrity and independence of the judicial system; they are equal partners with the Judges in the administration of justice. The lawyers, either in their individual capacity or as representing some Lawyers' Associations have the locus standi to challenge the circular letter addressed by the Union law Minister to the Governors and Chief Ministers directing that one third of the Judges of the High Court should, as far as possible, be from outside the State."

8. It is, no doubt, true that the scope of "locus standi" has been widened by this Court through its various decisions and, that too, in the field of Public Interest Litigation where it has been said that Public Interest Litigation can be initiated not only by filing petitions in the High Court or in this

Court in a regular manner but also by means of letters and telegrams addressed to the Court. (See : People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473 : (1982) 2 SCC 494 : (1982 Lab IC 1646), Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802 : (1984 Lab IC 560), State of Himachal Pradesh v. A Parent of a Student of Medical College, Shimla, AIR 1985 SC 910 : (1985) 3 SCC 169 and Bangalore Medical Trust v. B. S. Muddappa, AIR 1991 SC 1902 : (1991 AIR SCW 2082).

9. But a mere busy-body who has no interest cannot invoke the jurisdiction of the court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a Writ Petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" enquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.

10. In view of the above, it is not open to the petitioner to challenge the order of the High Court by which the departmental charge-sheet issued to Dr. U.N. Biswas was quashed. The permission to file the special leave petition is, therefore, refused.

Order accordingly.