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

+ **W.P.(C) 9311/2019**

B D MAJUMDAR

..... Petitioner

Through

Mr. Santhosh Krishnan,
Ms.Subhosree and Ms. Swathi
Sukumar, Advocates.

versus

CENTRAL VIGILANCE COMMISSION AND ORS.

..... Respondents

Through

Mr. Ravinder Agarwal, Advocate for
R-1 & R-4.
Ms. Maninder Acharya, ASG with
Mr. Tarkeshwar Nath, Mr. Harshul
Choudhary, Ms. Ikshita Singh,
Mr.Viplav Acharya and Mr. Rohit
Prasad, Advocates for R-2.
Mr. Arun Bhardwaj, Advocate for
UOI.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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28.08.2019

CM APPL. 38404/2019 (Exemption)

Allowed, subject to just exceptions.

W.P.(C) 9311/2019 & CM APPL. 38403/2019

A departmental inquiry was initiated against the petitioner during the period he was working for the respondent no.2 as Chief General Manager (Marketing). The inquiry was so initiated under the State Trading Corporation of India Limited Employees' (Conduct, Discipline & Appeal)



Rules, 1975. Inquiry Officer was however nominated by the Central Vigilance Commission as provided for under the Rules, 1975. The petitioner-the charged officer, has examined one witness in his defence and for few remaining witnesses, he sought invocation of the provisions of the Central Vigilance Commission Act, 2003 and/or Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972.

In sum and the substance, the grievance of the petitioner is that a few of the witnesses he seeks to examine to prove his defence requires compelling their attendance but the Inquiry Officer refrains to follow so. According to the Id. Counsel for the petitioner, it was violation of fundamental principles of natural justice. In his submissions, the objective is to examine the witnesses, for which, whether the recourse is found under the Central Vigilance Commission Act, 2003 and/or Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972, is immaterial. During the course of hearing, Id. Counsel for the petitioner also points out that in another ongoing departmental inquiry emanating from the same events, a coordinate bench of this Court in W.P.(C) 6059/2018 ‘Ashok Chawla vs. Central Vigilance Commission & Ors’, had directed stay of further proceedings in the inquiry and the stay so granted is operating, till now.

Ms. Acharya, Id. ASG on her part however strenuously contends that the provisions for enforcement of attendance of witnesses as provided for under the Central Vigilance Commission Act, cannot be invoked inasmuch as the inquiry proceeding are not being conducted by the Central Vigilance Commission much less on a recommendation of the Central Government but



for the Inquiry Officer having been nominated by it as provided for under the State Trading Corporation of India Limited Employees' (Conduct, Discipline & Appeal) Rules, 1975. In the submissions of the Id. ASG therefore, the Inquiry Officer has no authority to enforce attendance of any defence witnesses and the witnesses sought to be examined by the petitioner have no relevance to the inquiry but for an effort to delay the conclusion of the inquiry. According to the Id. ASG, the Inquiry Officer conducting the subject departmental inquiry is equally not vested with any authority to enforce attendance of defence witnesses even under the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972. Besides that, it is contended that issuance of any injunction/stay order at this stage, shall have catastrophic effect on the other vigilance inquiries, which are about 10 in number.

During the course of hearing, it however comes to be pointed out that in another petition being W.P.(C) 6059/2018 'Ashok Chawla vs. Central Vigilance Commission & Ors', which emanates from the same facts and circumstances, a coordinate bench of this Court has directed stay of further proceedings in the inquiry and that the stay so granted is continuing.

Issue notice.

Mr. Ravinder Agarwal, Advocate accepts notice on behalf of respondent no.1 and 4, Mr. Tarkeshwar Nath accepts notice on behalf of respondent no.2 and Mr. Arun Bhardwaj, Advocate accepts notice on behalf of Union of India. Counter-affidavit(s) and reply(ies) to the application may be filed within two weeks. Rejoinder(s) thereto may be filed a week before the adjourned date.

List on 20.09.2019. Till then, Inquiry Officer shall not conclude the



report but for any other proceeding that may be required to be completed during the inquiry proceedings.

Dasti under the signatures of the Court Master.

A. K. CHAWLA, J

AUGUST 28, 2019

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