

**Reserved On : 04/05/2026**

**Pronounced On : 17/07/2026**

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/LETTERS PATENT APPEAL NO. 1077 of 2021**

**In**

**R/SPECIAL CIVIL APPLICATION/10925/2015**

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**KANDLA PORT TRUST (NOW DEENDAYAL PORT TRUST)**

**Versus**

**SANJAY JAGDISHBHAI BHATY**

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**Appearance:**

**MR MIHIR JOSHI, SENIOR ADVOCATE and MR DHAVAL VYAS,**  
**SENIOR ADVOCATE for M/S. VYAS ASSOCIATES (1559) for the**  
**PETITIONER No.1**

**PARTY IN PERSON (5000) for the RESPONDENT No.1**

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**CORAM: HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA**

**and**

**HONOURABLE MR.JUSTICE J. L. ODEDRA**

**CAV JUDGMENT**

**(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)**

1. This appeal is filed by Kandla Port Trust (hereinafter to be referred to as “the employer”) challenging the order of the learned Single Judge by which, the learned Single Judge has partly allowed the writ petition of Sanjay Jagdishbhai Patil (hereinafter to be referred to as “the employee”) and set aside the penalty of removal from service inflicted on 6.7.2017 and also the punishment of dismissal from service on 14.9.2018 a year thereafter against the employee and remanding the matter to the employer with a direction to impose a minor penalty in lieu of the extreme punishment that had been imposed earlier.

2. The necessary facts, which has led to the filing of this Letters Patent Appeal, are as follows:

- i. On 27.7.2015, a major penalty proceeding was initiated against the employee.
- ii. Four charges laid against the employee in the charge-sheet dated 27.7.2015 (hereinafter to be referred as "the first charge-sheet") were as follows:

STATEMENT OF ARTICLES OF CHARGE FRAMED  
AGAINST SHRI SANJAY BHATY TP&PRO KNADLA PORT  
TRUST

*Article-I*

*Shri Sanjay Bhaty. while functioning as TP&PRO, KPT, had been asked, vide letter No.GA/PS/4322/1395 dated 2.5.2015, to produce all the original certificates pertaining to his educational qualifications, including School Leaving, Caste Certificate etc. and also submit duly filled in personal data form.*

*Article - II*

*Shri Sanjay Bhaty by the act of non-production of all the original certificates as sought, vide letter No.GA/PS/4322/1395 dated 02.05.2015, with an intention to hide the facts about his credentials. created impediment in the process of verification of his said certificates based on which he was appointed as TP&PRO in 1997.*

*Article-III*

*Shri Sanjay Bhaty secured employment as TP&PRO in KPT in the year 1997 without possession of requisite essential qualifications as per the Recruitment Rule prescribed for the post of TP&PRO, KPT i.e, "graduate of a recognized*

*university and should possess recognized degree or diploma in journalism".*

*Article - IV*

*Shri Sanjay Bhaty, while submitting the Attestation Form on 15.3.1997, misled the KPT Management by submitting an unacceptable and unrecognized "Certificate on Journalism", bearing No.5651 dated 24.3.1994 of Bharatiya Patrakarita Sansthan, Bareilly, UP, and obtained his employment to the post of TP&PRO, KPT, in a deceitful manner.*

- iii. An Inquiry Officer was appointed to inquire into the aforementioned charges and the Inquiry Officer, after conducting an inquiry, submitted a report on 24.11.2016 holding that all the four charges laid against the employee had been proved.
- iv. The Disciplinary Authority, on consideration of the inquiry report and the representation of the employee, came to the conclusion that the employee was required to be imposed with a major penalty of removal from service with immediate effect. This order in relation to the first charge-sheet was passed on 6.7.2017.
- v. It may be pertinent to state here that the employee had already approached this Court challenging the order of suspension and the Articles of Charge, and he proceeded to seek for amendment of the prayer, which was granted, and

he was permitted to challenge this major penalty of removal from service.

- vi. This order of removal from service was, in fact, stayed by the learned Single Judge.
- vii. It may be pertinent to state here that during the pendency of these proceedings, another charge-sheet dated 18.2.2016 was issued against the employee (hereinafter to be referred to as “the second charge-sheet”), in which four charges were levelled against the employee, which read as follows:

STATEMENT OF ARTICLES OF CHARGE FRAMED  
AGAINST SHRI SANJAY BHATY, TP&PRO, KANDLA PORT  
TRUST

*Article - I*

*Shri Sanjay Bhaty, while functioning as TP&PRO, KPT, has filed a private complaint against Shri P. Ramjee, Chief Vigilance Officer, KPT, in the Hon'ble Court of Additional Chief Judicial Magistrate, vide Criminal Inquiry No.322/2015, without seeking permission of the Competent Authority.*

*Article - II*

*Shri Sanjay Bhaty, TP&PRO, submitted a report in the matter of Case No.322/2015 in the Court of Additional Chief Judicial Magistrate, Gandhidham, on affidavit, claiming to be a report of Dr. G.S. Rao, COM OOT Vadinar in the contract of Dredging work, carried out by M/s Jaisu Shipping Company Pvt. Ltd. during the period from 27.12.2010 to 26.01.2013, alongwith other documents without any authority.*

*Article - III*

*Shri Sanjay Bhaty, TP&PRO, filed a tampered / forged report claiming to be the report of Dr. G.S. Rao, COM, OOT Vadinar, KPT, on Affidavit in the matter of Case No.322/2015 before the Hon'ble Court of Additional Chief Judicial Magistrate, Gandhidham, with-a-view-to-mislead the court and malign the image of Shri P. Ramjee, CVO, KPT, and the KPT Management.*

*Article - IV*

*Shri Sanjay Bhaty, TP&PRO, misused his position by tampering/forging an official report of Dr. G.S. Rao, COM, OOT Vadinar, KPT, claiming to be prepared by Dr. G.S. Rao, in connection with the contract of Dredging Work, carried out by M/s Jaisu Shipping Company Pvt. Ltd, during the period from 27.12.2010 to 26.1.2013, which is a confidential one, and submitted before the Hon'ble Court of Additional Chief Judicial Magistrate, Gandhidham, unauthorizedly.*

- viii. In respect of this charge-sheet, an inquiry was conducted by the Inquiry Officer and a report holding that the three charges, i.e. Articles-II, III and IV were proved. It was held by the Inquiry Officer that the first charge was not held as the same was repetition of the charge dated 3.11.2015.
- ix. The employee submitted his representation to the inquiry report dated 24.11.2016 and also to the inquiry report dated 5.11.2016.
- x. Kandla Port Trust, by virtue of the stay granted to the punishment of removal from service, proceeded to consider the reply given by the employee in respect of the inquiry report

submitted to the second charge-sheet and also his representation and proceeded to impose a major penalty of dismissal from service dated 14.9.2018.

- xi. Thus, as against the first charge-sheet, a major penalty of removal from service was imposed on 6.7.2017 and in respect of the second charge-sheet, a penalty of dismissal from service was imposed on the employee on 14.9.2018.
- xii. It may be pertinent to state here that after the employee had been removed from service, he has been imposed with another penalty of dismissal from service.
- xiii. The employee once again sought for and was permitted to amend his prayer in the writ petition, which had been initially filed for impugning an order of suspension, and to also challenge this imposition of the punishment of dismissal from service dated 14.9.2018.
- xiv. In short, this writ petition filed by the employee relates to his challenge to the two punishments that have been imposed against him, i.e. the major penalty of removal from service dated 6.7.2017 and the second penalty of dismissal from service dated 14.9.2018.
- xv. The learned Single Judge has held that it was

wrong on the part of the employer to have passed the second order of dismissal from service in the year 2018, after having earlier passed an order of removal from service on 6.7.2017 and has also come to the conclusion that the charges laid under the first charge-sheet, that the employee did not possess the necessary educational qualifications, could not have been made, having regard to the fact that the employee had worked for more than 18 years, i.e. from 1997 till 2015.

- xvi. The learned Single Judge has also recorded a finding that there was no proof to come to the conclusion that the employee had tampered with the confidential report, as had been alleged in the second charge-sheet.
- xvii. Consequently, the learned Single Judge has set aside both the orders of punishment dated 6.7.2017 and 14.9.2018.
- xviii. Ultimately, the learned Single Judge has come to the following conclusion:

*“9.20. From the above findings arrived at by the inquiry officer to the effect that the petitioner has violated Regulations 3(8)(i), 3(8) (iv), 3(8)(vi) and 8 of the Regulations, 1964 cannot be accepted. Therefore, considering the above Regulations, the responded-KPT could not have imposed the major penalty / punishment upon the petitioner under Regulation 9 of Regulations, 2004 by passing the order of removal / dismissal from service which shall act as a disqualification from future*

*employment. Considering more than 20 years of service of the petitioner put-up with respondent-KPT, at the best the petitioner could have been imposed the minor punishment or penalty, such as withholding of annual or yearly increment as per Clause 9(xv) of the Regulations, 2004.*

*10. In view of the above discussion, in the facts of the present case, the respondent- KPT could not have passed the order of dismissal from service of the petitioner dated 14th September, 2018, after passing the order of removal from service dated 6th July, 2017. Therefore, the impugned order dated 14th September, 2018 is required to be quashed and set aside and the matter is required to be remanded back to the Disciplinary Authority to reconsider the case of the petitioner to impose the minor penalty / punishment as indicated herein above of withholding of annual / yearly increment of the petitioner with future effect."*

- xix. In other words, the learned Single Judge, though has come to the conclusion that the findings of the Inquiry Officer could not be accepted, has, however, observed that, at best, the employee could have been imposed only with a minor penalty, such as withholding of annual or yearly increment with future effect, and has, accordingly, remanded the matter to the Disciplinary Authority for imposing such a minor penalty.
- xx. The employee has accepted this order and has not chosen to prefer any appeal regarding the remand of the matter to the Disciplinary Authority for imposition of a minor penalty.
- xxi. However, the employer has filed this appeal challenging the order of the learned Single Judge,

by which, the two punishments that the employer had imposed have been set aside.

3. Learned Senior counsel Mr. Mihir Joshi as well as learned Senior counsel Mr. Dhaval Vyas appearing for the appellant-employer contended that the learned Single Judge has fundamentally re-appreciated the evidence as if he was an Appellate Authority and has held that the charges had not been established, which is impermissible in law. Both the learned Senior counsels argued that in disciplinary matters, it is settled law that merely because an alternate view was possible, the appreciation of evidence by the Inquiry Officer and his acceptance by the Disciplinary Authority cannot be interfered with.

4. Learned Senior counsels pointed out that there were serious charges levelled against the employee and which was held to be proved by the Inquiry Officer on appreciation of the evidence adduced and in such a situation, the learned Single Judge could not have come to the conclusion that the findings of the Inquiry Officer were unacceptable and as a consequence, the orders of punishment were liable to be quashed.

5. Learned Senior counsels pointed out that the observation of the learned Single Judge that the employer after imposing the penalty of removal from service on 6.7.2017 could not have proceeded to impose a second

penalty of dismissal from service on 14.9.2018 when the first punishment had been stayed by this Court would be incorrect.

6. Learned Senior counsels submitted that as the imposition of penalty of removal from service had been stayed, thereby meaning that the employee continued to be in service and since he continued to be in service, the employer was possessing the power to proceed against the employee in respect of the other charges and could have concluded those proceedings also. It is contended that there were multiple inquiries being conducted against the employee and unless a specific order of stay was granted for the conduct of the remaining inquiries after the punishment had been imposed in one of the inquiries, the employer could not be faulted for proceeding with the another pending enquiry.

7. Learned Senior counsels submitted that as a matter of fact, apart from these two inquiries, there were also several other inquiries against the employee and after the punishment of dismissal from service was imposed on the employee, the other inquiries have in fact been kept in abeyance.

8. The respondent- employee, who appeared in person, submitted that there was absolutely no justification for initiation of an inquiry against him and the initiation of the inquiry was fundamentally initiated, because he had

represented to various authorities regarding the wrongdoings by certain named officials working for his employer. He submitted that the employer was basically punishing him because he had taken up the cause of preventing wrongdoing by the employees, which was detrimental to the interest of the employer.

9. The party-in-person also sought to contend that after working for 18 years, having been recruited by a selection committee, the charge that he did not possess the appropriate educational qualifications at the time of appointment was wholly untenable and the learned Single Judge has, therefore, rightly held that the charges made against him in the first charge-sheet were unacceptable.

10. The employee also argued that as far as the second charge-sheet was concerned, it had been clear, i.e. regarding the initiation of criminal proceedings by him and the submission of a tampered confidential report, that there was no rule required for an employee to take permission for lodging a private complaint against an individual working for his employer and alleging that he was guilty of wrongdoing. He also submitted that he had not mentioned anything about the report in his affidavit and, therefore, there was no question of him relying upon the report, which had been produced along with the complaint.

11. The employee submitted that the allegation that he had tampered with the report had not at all been established and, therefore, the order of the learned Single Judge could not be found fault with.

12. In the light of the above, the only question that would arise for consideration is whether the order of the learned Single Judge in setting aside the two punishments imposed on the employee and remanding the matter to the Disciplinary Authority for imposition of a minor penalty is correct or not?

13. The first charge-sheet dated 27.7.2015 sought to lay four charges against the employee. These charges basically were to the effect that the employee had been called upon to produce all the original certificates pertaining to his educational qualifications and also submit the duly filled-up personal data form and the employee had failed to produce all the original certificates, with the intention of hiding his true facts regarding his credentials.

14. It was sought to be alleged against the employee that he did not satisfy the requirement of the educational qualification prescribed under the rules, i.e. he was not graduate of a recognized university, and he should possess a recognised degree or diploma in Journalism. It was alleged against the employee that while submitting

the attestation form dated 15.3.1997, he had misled the employer by submitting an unacceptable and unrecognised certificate of Journalism and secured his employment in a deceitful manner.

15. At the outset, it is to be noticed here that the employee had been appointed in the year 1997 and after extracting service from him for a period of nearly 18 years, an allegation is sought to be made that he did not possess the necessary educational qualifications for being appointed.

16. In fact, the essence of the charge and also the arguments advanced was that he did not have a recognised degree or diploma in Journalism and he only had a certificate of Journalism which was issued by one entity, called Bharatiya Patrakarita Sansthan, and, therefore, he had obtained his recruitment in a deceitful manner.

17. It is not in dispute that the original application form submitted by the employee was not produced during the course of the inquiry. What was produced was an attestation form, said to have been filled up by the employee. In the column relating to his education qualifications, it has been mentioned as follows:

*Educational qualifications showing place of education with year in school and Colleges since 15<sup>th</sup> year of age*

| <i>Name of School/ College with full address</i> | <i>Date of entering</i> | <i>Date of leaving</i> | <i>Examination passed</i>              |
|--------------------------------------------------|-------------------------|------------------------|----------------------------------------|
| <i>MODEL H.S. School Bhopal</i>                  | <i>1991</i>             | <i>1996-97</i>         | <i>Intermediate</i>                    |
| <i>AFIA College, Bhopal</i>                      | <i>1997</i>             | <i>1990</i>            | <i>B.A.</i>                            |
| <i>Bharatiya Patraparita Sansthan, Bareilly</i>  | <i>1990</i>             | <i>1991</i>            | <i>Diploma in Journalism</i>           |
| <i>The Inst.of Labour Studies, Bareilly</i>      | <i>1992</i>             | <i>1993</i>            | <i>Diploma in Labour Law</i>           |
| <i>B'Bay Inst. Of MGMT, Bombay</i>               | <i>1993</i>             | <i>1994</i>            | <i>Diploma in Marketing &amp; MGMT</i> |
| <i>Hamidiya College, Bhopal</i>                  |                         | <i>1996</i>            | <i>M.A. in Economics</i>               |
| <i>DIR Distance Education Bhopal University</i>  |                         | <i>1997</i>            | <i>Diploma in Social Work</i>          |

18. As could be seen from the above, the employee stated that he had acquired a BA degree from Asia College in Bhopal. The employee also stated that he had obtained a diploma in Journalism from the Bharatiya Patrakarita Sansthan apart from the three other other diplomas that he had in Labour Law, Marketing Management, Social Work and also a Master's Degree in Economics.

19. The assertion of the employer, however, is that the employee had only produced a certificate of Journalism which could not be considered as a diploma in Journalism. It is clear from the above that the employee did produce a certificate which, according to him, satisfied the educational qualifications prescribed by the recruitment

rule of having a diploma in Journalism.

20. The fact as to whether this certificate of Journalism was or was not a diploma, ought to have been established by the employer with reference to credible material, such as a letter from the competent authority that the certificate of Journalism produced by the employee was not amounting to a degree or a diploma in Journalism.

21. In fact, the employer should have secured material to indicate that there was an authority constituted to oversee the field of education in Journalism and that authority ought to have certified that the course pursued and passed by the employee as per the certificate produced by him did not qualify as a degree or a diploma in Journalism. To put it differently, an entity, such as a university which would have the right to oversee the field of education in Journalism, ought to have certified that the employee did not possess a diploma in Journalism and that the certificate produced by him did not tantamount to a diploma.

22. Admittedly, there is no such effort made by the employer to secure any material from the competent authority. The reasoning of the Inquiry Officer to come to the conclusion that the employee did not possess a certificate of a diploma in Journalism, is as follows.

## **“5.2. Article III & Article IV**

*Educational Qualification shown in all the three documents Exh P-8, Exh P-9 and Exh P-11, is the same as:*

*"Qualification: Essentials should be a graduate of recognized university and should possess recognized degree or diploma in journalism. And (b) should possess good knowledge of English, Gujrati and Hindi and should be able to write press notes, scripts for publicity material in these languages."*

*5.2.1 The C.O. has admitted that he submitted a certificate 'Patrakarita Praman Patra' issued by, Bhartiya Patrakarita Sansthan, Bareilly (U.P.), (Exh P-5) at the time of his interview and got the same checked as Post Graduate Diploma in Journalism, against one of the requirement of essential qualification for the post of T.P.& P.R.O.. This has been pointed out by PW-3 that there is no mention on the said certificate that the same is "Diploma in Journalism". PW-3 has not been cross - examined on this point. The P.O. has pointed out in his brief that there is no mention that the certificate is recognized by any university, or board, or central/state Government and also it bears no signature of Registrar/ Vice Chancellor of University or any authority on behalf of Central/State Govt. The C.O. on the basis of dictionary meaning of the word 'Diploma' in Hindi, has explained that 'Patrakarita Praman Patra' is "Diploma in Journalism" and has stated that the expression of the P.O. is assumption and presumption not supported by any rule or even by a sample copy of such Diploma in Journalism. The C.O. in his defence brief has stated that hypothetical version of the P.O. has no force of law. After evaluation of the points raised by the P.O and arguments of the C.O., I found that point raised by the P.O. is based on his experience and observation in daily life and can't be said that it has no force of law. It is true that any Certificate, Diploma or Degree is issued in the name of University, Board or Council. In some cases, autonomous institutes issue the degree or diploma but in such cases, name of authority giving recognition is necessarily mentioned.. It is evident that "Patrakarita Praman Patra" (Exh P-5) issued by "Bhartiya Patrakarita Sansthan" has no mention anywhere on the certificate about any recognition or "Diploma". This is an important known fact that Certificate of recognised Diploma in Journalism can only be secured by passing examination of the course 'recognized Diploma in Journalism'. It is evident from the text of 'Patrakarita Praman Patra' that the same has been issued by the Bhartiya Patrakarita Sansthan for passing 'One Year Journalism Training Course'. Therefore, neither name of the Course is 'Diploma in Journalism' nor the Certificate issued is 'Diploma in Journalism'.*

5.2.2 The C.O. has admitted that Bhartiya Patrakarita Sansthan is in existence since 16/05/1983 and registered under Society Registration Act 1860. And also one of the object of the society is to impart training and to issue certificate to those, who are successful in the training course. This is also admitted that, Renowned and Reputed institutions are run with their registration under the Society Registration Act 1860. But, this is a truth and known fact that, Registrar Societies can register a Society to run educational institute, but can't give recognition to Educational Institute or Degree or Diploma. Therefore, the institute registered under Societies Registration Act is required to get affiliation with University, or recognition of Board or any other competent Authorities to run recognized courses. Therefore, neither "One year journalism training course" is a recognized course nor the "Bhartiya Patrakarita Sanstahan" is a recognized educational institute. And therefore, the "Patrikarita Praman-Patra" is not a Recognised Diploma in Journalism.

5.2.3 The C.O. has stated vide Para 10 of the Attestation Form (Exh P-7) that he joined "Bhartiya Patrakarita Sansthan" in 1990 and left the institute 1991. The "Patrikarita Praman Patra" Exh P-5, reveals that the C.O. passed the 'One year Journalism Training Course' in December 1989 and the Certificate was issued in the year 1994. The Exh E-1 reveals that the C.O. passed B.A. Final Examination in the month Oct/Nov 1990. Therefore, the C.O. has passed the examination of One year Journalism Correspondence Training course along with the B.A. three year Educational Course. Thus, there is inconsistency and contradictions in the statement and therefore, the C.O. has not given complete and correct information in the Attestation Form.

5.2.4 The way the C.O. has argued by giving dictionary meaning of Diploma, that Patrikarita Praman-Patra is a recognized Diploma in Journalism, it is evident that the C.O. attempted to deceive the Inquiry officer to believe that the Patrikarita Praman Patra is a recognized Diploma in Journalism. The C.O. has, time and again argued that his certificates were verified at every stage at the time of his interview for the post. He has insisted the same at the time of his examination during the inquiry. Therefore, it is concluded, that he managed at every stage by misrepresentation, in somewhat similar fashion, to accept the Certificate of 'Patrikarita Praman-Patra' issued after passing examination of 'One year journalism training course' of 'Bhartiya Patrakarita Sansthan, Bareilly (U.P.)', as Post-Graduate Diploma in Journalism and got employment in Kandla Port as TP & PRO, by deceitful means."

23. As could be seen from the above reasoning, the

Inquiry Officer has interpreted the certificate that the employee had produced and concluded that it did not have the nomenclature of a diploma in Journalism and the certificate also did not state that it was a diploma in Journalism and, therefore, the possessing of the requisite educational qualification was not present. The Inquiry Officer has gone on to state that the authority which had issued the certificate was only a society registered under the Society Registration Act and such a society cannot give recognition to an educational institute or grant a degree or diploma and it was necessary that the institute ought to have secured an affiliation from a university or any other Board or competent authority to run the recognised courses.

24. It is, therefore, clear that the Inquiry Officer was aware that it was necessary for a university or a Board or some authority to grant recognition to admit students and issue a recognised diploma in Journalism. This, therefore, presupposes that the employer had to establish that the certificate that the employee had produced related to an entity which did not have the appropriate affiliation from a university or recognition from the concerned Board of education. In the absence of such evidence, the Inquiry Officer could not have come to the conclusion that the employee did not possess the educational qualification.

25. It may also be pertinent to state here that the

appointing authority after perusing the qualifications of the employee was satisfied that the certificate of Journalism was adequate for the job to which the employee had applied. If the documents produced by the employee had been assessed by a competent committee and the committee was satisfied that the employee was educationally qualified, a charge that the employee did not possess the educational qualification cannot be raised at a later point of time i.e., after extracting work from him for 18 years.

26. In the instant case, as found by the learned Single Judge, the employer has raised the bogey of the employee not possessing an education qualification nearly two decades after he had been appointed. Admittedly, there is no allegation made that he misrepresented the employer by producing fake certificates to the effect that he possessed the requisite educational qualifications.

27. The employer does not dispute the fact that the employee did produce a certificate of Journalism and there had been no attempt to produce a non-existent or a fake diploma or a fake credential. If a prospective employee had produced the documents in his possession and he stated that they met the requirement of the qualifications prescribed under the rules and this was accepted by the employer, the employer would be *estopped* from contending that the employee did not

possess the educational qualification more so after extracting the work from him for 18 years. It is, therefore, clear that the learned Single Judge was justified in coming to the conclusion that it was not proper on the employer to have laid a charge against the employee that he did not possess the adequate educational qualifications.

28. As regards the second charge-sheet that the employee had lodged a private complaint against another employee of the employer without securing a permission and while lodging this complaint, he tampered with a confidential report, at the outset, on a pointed query by the Court, the learned Senior counsels were unable to point to any rule governing the conduct of the employees, which required an employee to secure permission before proceeding against another individual in a court of law.

29. Admittedly, the complaint lodged by the employee was not against the employer and was against a particular official of the employer and the complaint was that there have been severe wrongdoings by that other employee. So, if there is no rule which requires securing the permission of the employer for initiation of a legal proceeding, including a criminal proceeding, the said charge would be without any basis at all.

30. As regards the allegation that a tampered

confidential report has been furnished, it has been found by the learned Single Judge that there was no proof to show that the employee had tempered with the confidential report and he has also found that the report had not been placed before the Court with an ulterior motive.

31. It may be pertinent to state here that the employer contending that the employee had violated the Regulation 8 of the Kandla Port Employees (Conduct) Regulations, 1964. which barred any employee from communicating directly or indirectly any official document or information to any person and he was also barred from giving the document relating to the employer.

32. It is to be stated here that the submission of report to a court, in support of a criminal complaint, cannot be considered as violating the bar to communicate with any other person regarding the documents of employer. Giving the documents to a Court cannot be equated to communicate with any person.

33. It is to be stated here that the purport of the rule is to ensure that the interests of the employer is not compromised by giving documents which could affect the prospects of the employer. Giving a document along with a complaint to a Court of law alleging that there were some severe irregularities in the employer's organization

cannot be equated to flouting the Regulation which prohibits communication with a third party so as to safeguard the interest of the employer. The complaint, even according to the employer, was alleging that the interest of the employer was being affected by the wrongful conduct of an employee. It is, therefore, clear that this allegation would also be improper.

34. It may also be stated here that in what manner the document had been tampered with is not clearly established. It is merely stated that the document was meddled at 32 places. There is nothing on record to indicate as to in whose custody, the confidential report was available and how the employee had gained access to the original report and had tampered with it.

35. A perusal of the private complaint that the employee had lodged would also indicate that there is no specific reference to the report as such, and only the report has been enclosed to the complaint. It is, therefore, clear that on an affidavit, the employee had not made any assertions regarding the authenticity of the report. In this view of the matter, the finding of the learned Single Judge that there was no proof to show that the employee had tampered with the confidential report cannot be found fault with.

36. It may also be pertinent to notice here that the

employer, after passing an order of removal from service in 2017, has proceeded to pass a subsequent order of dismissal from service in the year 2018. This would only indicate that the employer wanted to get rid of the employee in one way or the other and was not prepared to await the outcome of the writ petition in which the first order of removal from service was yet to be adjudicated.

37. Be that as it may, in our view, there is no ground made out to entertain the appeal and disturb the order of the learned Single Judge. The appeal is, therefore, DISMISSED.

**Sd/-**  
**(N.S.SANJAY GOWDA,J)**

**Sd/-**  
**(J. L. ODEDRA, J)**

OMKAR