

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

+ **W.P. (C.) No.704/2010**

% **Date of Decision: 03.02.2010**

Sh.S.S.Bhal ..... Petitioner  
Through Mr.L.B.Rai, Advocate.

Versus

Delhi Tourism & Transport Development ..... Respondent  
Corporation Ltd  
Through Mr.P.C.Sen, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KUMAR**

**HON'BLE MR. JUSTICE MOOL CHAND GARG**

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| 1. <i>Whether reporters of Local papers may be allowed to see the judgment?</i> | YES |
| 2. <i>To be referred to the reporter or not?</i>                                | NO  |
| 3. <i>Whether the judgment should be reported in the Digest?</i>                | NO  |

**ANIL KUMAR, J.**

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The petitioner challenges the order dated 25<sup>th</sup> November, 2009 passed in T.A No.712/2009 titled Sh.S.S.Bhal v. Delhi Tourism & Transport Development Corporation Ltd dismissing his petition seeking quashing of the departmental enquiry against the petitioner on account of delay in concluding the enquiry from 15<sup>th</sup> May, 2000 to 29<sup>th</sup> June, 2000 (about 44 days) as the Court had granted time to the respondent to complete the enquiry by 15<sup>th</sup> May, 2000.

A chargesheet dated 5<sup>th</sup> November, 1985 was issued to the petitioner pursuant to which departmental enquiry was initiated and an order of dismissal was passed which was, however, set aside in a writ petition filed by the petitioner and the respondent was directed to hold a fresh enquiry. While directing the fresh enquiry the time was restricted to complete the enquiry.

The enquiry could not be completed till 31<sup>st</sup> July, 1999, the time granted by the Court and consequently extension of time was sought which was allowed and time was granted upto 15<sup>th</sup> May, 2000. Thereafter though the enquiry was not concluded by 15<sup>th</sup> May, 2000, however, it was completed by 29<sup>th</sup> June, 2000 and the copy of enquiry report was also furnished to the petitioner.

Since the time to complete the enquiry was up till 15<sup>th</sup> May, 2000 and the enquiry was completed on 29<sup>th</sup> June, 2000, therefore, a petition being CM (C) No.608/2000 was filed by the respondent for extension of time which was decided on 20<sup>th</sup> August, 2000 holding that the petition has become infructuous as the enquiry has already been concluded on 29<sup>th</sup> June, 2000 and a copy of the enquiry report was also given to the petitioner.

After the conclusion of the enquiry in June, 2000, the petitioner did not approach the Court seeking quashing of enquiry against him for delay of about forty four days and filed the petition in 2009 seeking quashing of the disciplinary proceedings against him on the ground that the time to conclude the enquiry had expired on 15<sup>th</sup> May, 2000, however, the enquiry was concluded on 29<sup>th</sup> June, 2000.

The Tribunal while considering the pleas and contentions of the parties noted and relied on Suresh Chandra v. State of M.P, (2005) 12 SCC 355 holding that the enquiry proceedings/disciplinary proceedings do not become null and void merely because the enquiry has not concluded within the time granted by the Court. Reliance has also been placed on Bharat Coking Coal Ltd v. Bibhuti Kumar Singh and Ors, 1994 Supp. (3) SCC 628 holding that if there is an extension of time and the reason for extension of time is satisfactory then the enquiry must proceed and the disciplinary proceedings cannot be set aside and the prayer for extension of time should not to be rejected.

The respondent had filed the application for extension of time from 15<sup>th</sup> May, 2000 to 29<sup>th</sup> June, 2000 which was taken up and the prayer was not rejected rather it was held that the petition has become infructuous since the enquiry had been completed and the copy of the enquiry report had also been given to the petitioner. Holding that the

application for extension of time has become infructuous connotes in the present facts and circumstances that the time for concluding the enquiry till 29<sup>th</sup> June, 2000 was extended and consequent thereto it was held that the application had become infructuous. In the circumstances, it cannot be inferred that the prayer for extension of time from 15<sup>th</sup> May, 2000 to 29<sup>th</sup> June, 2000 was declined or rejected.

The learned counsel for the petitioner is very vociferously relied on (2005) 12 SCC 355, Suresh Chandra v. State of M.P and Ors in which the Apex Court had set aside the order of the High Court holding that the disciplinary authority could not proceed with the proceeding after the period granted by the State Administrative Tribunal. The Supreme Court had set aside the proceedings conducted after 15<sup>th</sup> May, 1999 the time given by the State Administrative Tribunal and had directed to continue the proceeding after 15<sup>th</sup> May, 1999 afresh. In contradistinction in the case of the petitioner the respondent had approached the High Court for extension of time and since the enquiry had already been concluded and the copy of the enquiry report had been given to the petitioner so, therefore, instead of rejecting the claim of the respondent for extension of time it was held that the application for extension of time has become infructuous since the enquiry had already been concluded and consequently the time from 15<sup>th</sup> May, 2000 to 29<sup>th</sup> June, 2000 was extended by implication. On the basis of the

ratio of the said judgment the petitioner is not entitled for any relief.

The learned counsel for the petitioner has emphatically contended that since the petition was disposed of as infructuous it does not tantamount to extension of time to conclude the enquiry from 15<sup>th</sup> May, 2000 to 29<sup>th</sup> June, 2000.

The plea of the learned counsel for the petitioner is without any rationale and is not sustainable. The learned counsel for the petitioner is also unable to give any cogent reason for not approaching the Court for almost 9 years after the enquiry was concluded on 29<sup>th</sup> June, 2000. In the facts and circumstances there is no such illegality or irregularity in the order of the Tribunal dated 25<sup>th</sup> November, 2009 which will entail any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. Rather the writ petition is an abuse of the process of law. In the facts and circumstances the writ petition is, therefore, dismissed. The petitioner shall also be liable to pay a cost of Rs.5000/- to the counsel for the respondent who has appeared on advance notice.

**ANIL KUMAR, J.**

**February 03, 2010**

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**MOOL CHAND GARG, J.**