

RAMESH SANKA

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v.

UNION OF INDIA & ORS.

(Writ Petition (Crl.) No. 142 of 2018)

JANUARY 25, 2019

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**[ABHAY MANOHAR SAPRE AND
R. SUBHASH REDDY, JJ.]**

Constitution of India – Art.32 – Personal contractual rights inter se the employee and his employer – Petitioner alleged that Respondent No.12 - a Limited Company committed several financial irregularities in their business and financial dealing with many Companies, firms and individuals in contravention of the provisions of Several Acts/Rules/Regulations – Respondent No.12 contended that writ petitioner was its former employee and that petition was filed with an ulterior motive to tarnish the image of respondent no.12, as some civil suits were pending between them – Held: In instant case, petitioner has not claimed any relief in person qua respondent no.12-Company – Even otherwise, writ petition u/Art.32 is not the remedy for agitating any personal grievance in relation to any of his contractual personal rights flowing from any service conditions or any other agreement – If the writ petitioner has any personal grievance in relation to his contractual personal rights, legal remedy for petitioner lies in filing civil suit or taking recourse to any other civil law remedy for adjudication and enforcement of his rights qua respondent no.12-Company or anyone claiming through them as the case may be – Since, parties were already prosecuting their grievances against each other in Civil Court, the same have to be pursued by them in accordance with law.

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Dismissing the Writ petition, the Court

HELD: 1. At the outset, the writ petitioner has not claimed any relief in person *qua* respondent No.12 – Company, in this writ petition. Even otherwise, no writ lies under Article 32 of the Constitution at the instance of any employee or the employer for claiming enforcement of any personal contractual rights *inter se* the employee and his employer. [Para 16] [430-A-B]

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- A **2. If the writ petitioner has any personal grievance in relation to any of his contractual personal rights flowing from any service conditions or any other agreement with the respondent No.12 – Company, his legal remedy lies in filing Civil Suit or take recourse to any other civil law remedy for adjudication and enforcement of his rights *qua* respondent No.12 – Company or anyone claiming through them as the case may be. The writ petition under Article 32 of the Constitution is not the remedy for agitating any such grievance. [Para 17][430-B-C]**

- B **3. It is not in dispute that the parties are already prosecuting their grievances against each other in Civil Court in their respective civil suits filed by them against each other. If that be the position, the same have to be pursued by them in accordance with law against each other. [Para 18] [430-D]**

- C **4. Insofar IAs filed by the different applicants for claiming various reliefs *qua* respondent No.12 – Company in relation to their individual and collective grievances are concerned, all such applicants would be at liberty to raise their grievances *qua* respondent No.12 – Company whether individually or severally for adjudication of their rights before an appropriate Judicial Forum in accordance with law. [Paras 23, 24] [431-A-C]**

State of Uttarakhand v. Balwant Singh Chaufal & Ors.

(2010) 3 SCC 402 : [2010] 1 SCR 678 ; K.D. Sharma

v. Steel Authority of India Ltd. & Ors. (2008) 12 SCC

481 : [2008] 10 SCR 454 ; Arun Kumar Agrawal v.

Union of India & Ors. (2014) 2 SCC 609 : [2014] 3 SCR 861 – referred to.

Case Law Reference

G	[2010] 1 SCR 678	referred to	Para 15
	[2008] 10 SCR 454	referred to	Para 15
	[2014] 3 SCR 861	referred to	Para 15

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CRIMINAL ORIGINAL JURISDICTION : Writ Petition A
(Criminal) No.142 of 2018

Under Article 32 of the Constitution of India.

Tushar Mehta, SG, Anil Grover, AAG, Vikas Singh, Sanjay Hegde, Shyam Divan, Sandeep Sethi, Nidhesh Gupta, S.K. Aggarwal, Sr. Advs., Ms. Chanchal Chauhan, Dr. (Mrs.) Vipin Gupta, Rajesh Kumar Chaurasia, Sudhir Kathpalia, Anil Sharma, Mahesh Agarwal, Rishi Agrawala, Ankur Saigal, Sameer Chaudhary, Anshuman Srivastava, Ms. Shruti Garg, E. C. Agrawala, Ms. Aishwarya Bhati, P.K. Dey, T.A. Khan, Ms. Suhasini Sen, B. V. Balaram Das, B. Krishna Prasad, Ashish Bhan, Mohit Rohatgi, Aayush Mitruka, Bankey Bihari Sharma, Ms. Richa Narang, Hitesh Mankar, Arvind Kumar Sharma, Mrs. Anil Katiyar, Alok Sangwan, Sunny Kadiyan, Dr. Monika Gusain, Ms. Tejaswini Chandrasekhar, Siddharth Batra, Ravinder Kumar, Vishwajeet Arora, Ms. Garima Sehgal, Viriti Gujral, Ms. Jaspreet Kaur, Ms. Pallavi Singh, Advs. for the appearing parties.

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The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J. 1. This writ petition is filed by one Mr. Ramesh Sanka under Article 32 of the Constitution of India seeking for the issuance of Writ of Mandamus or any other Writ or directions directing Respondent No.23 (CBI) to investigate the entire matter and examine all the allegations made by the writ petitioner against Respondent Nos.12 to 22 in accordance with law. The other reliefs claimed in clause (b) to (d) of the writ petition are consequential to the main relief.

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2. Stated concisely, the petitioner seeks the aforementioned reliefs on following facts.

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3. The petitioner is a former employee of Respondent No.12 - a Limited Company. He worked as CEO of the said company from June 2014 till 31st December 2016.

4. In substance, the grievance of the writ petitioner is against Respondent No.12. He has highlighted the manner and the *modus operandi* of Respondent No.12 – Company, in carrying out their business and financial operations/dealings.

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- A 5. His grievance is also against the persons who are managing the affairs of Respondent No.12 - Company and also against the Companies, individuals and the firms with whom respondent No.12 - Company is having their business and financial dealing/operations i.e. (Respondent Nos.13 to 22, 24 and 25).
- B 6. According to the writ petitioner, Respondent No.12 – Company, through their Directors and employees has committed several financial irregularities in their business and financial dealing with many Companies, firms and individuals who are having their work places in India and abroad contrary to and in contravention of the provisions of Several Acts/ Rules / Regulations which have gone unnoticed despite the writ petitioner had sent several complaints/representations to various statutory authorities in this behalf.
- C 7. According to the writ petitioner, all such dealings/activities of Respondent No.12 – Company, which he has highlighted in the writ petition has not only caused heavy loss to the public exchequer but also rendered the persons, who indulged in these activities, liable to face prosecution for commission of several cognizable offences punishable under the Acts.
- D 8. It is essentially with these background facts; the writ petitioner has made allegations in the writ petition. He has also filed some documents E to show *prima facie* that the prayer made by him in his writ petition deserves consideration.
- F 9. On 11.07.2018, this Court issued notice of this writ petition confining it to the official respondents namely, respondent Nos.7 to 11. These respondents have filed the status report in a sealed cover. One official-respondent has filed the affidavit.
- G 10. Respondent No.12 – Company, however, in the meantime entered *suo motu* appearance and has filed IA No.104447 of 2018 praying therein for dismissal of the writ petition on legal as well as on factual grounds.
- H 11. In substance, according to respondent No.12 – Company, the writ petition filed by the writ petitioner under Article 32 of the Constitution deserves dismissal on the grounds *inter alia* that it is not a *bona fide* petition. It is contended that this writ petition is filed by a former employee

of respondent No.12 – Company to score his personal issues and the differences *qua* respondent No.12 – Company, for which some civil suits are pending between the parties in the Civil Court: that the writ petitioner has suppressed several material facts in the writ petition including the fact of pendency of the Civil Suits between them: that the writ petition is filed with an ulterior motive at the behest of others only to tarnish the image of respondent No.12 – Company, in the market: that the writ petition does not involve any issue of infraction/violation of any fundamental rights, guaranteed to the citizens under the Constitution of India, of the petitioners. The Respondent No.12 – Company, has denied all such allegations made against them by the writ petitioner as being baseless.

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12. The writ petitioner has countered the averments made in the aforesaid IA by placing reliance on the averments made in the writ petition contending that there has been no suppression of the material facts as alleged by respondent No.12 – Company.

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13. In the meantime several persons /organizations have *suo motu* filed the applications being I.A. Nos.3739/2018, 176284-85/2018, D.No.110020/2018, 160094/2018, 171501/2018, 160094/2018, 163098/2018, D. No.175943-47/2018, 144019/2018, 81895/2018, 165472/2018, 163874/2018, 157884/2018, 115735/2018 and 2974/2019, seeking therein various kinds of reliefs for them individually and collectively against respondent No.12 – Company, in relation to their independent dealings which they claimed to have had with respondent No.12 – Company and which according to them are not till date fructified and given to them by respondent No.12 – Company, as agreed.

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14. We have heard all the learned counsel for the parties in support of their case.

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15. Having heard the learned counsel for the parties and keeping in view the law laid down by this Court in the cases reported in State of Uttarakhand vs. Balwant Singh Chauhan & Ors. [2010 (3) SCC 402], K.D. Sharma vs. Steel Authority of India Ltd. & Ors. [2008(12) SCC 481 and lastly in Arun Kumar Agrawal vs. Union of India & Ors. [2014(2) SCCC 609], we are not inclined to grant any relief in this writ petition.

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- A 16. At the outset, we find that the writ petitioner has not claimed any relief in person *qua* respondent No.12 – Company, in this writ petition. Even otherwise, no writ lies under Article 32 of the Constitution at the instance of any employee or the employer for claiming enforcement of any personal contractual rights *inter se* the employee and his employer.
- B 17. If the writ petitioner has any personal grievance in relation to any of his contractual personal rights flowing from any service conditions or any other agreement with the respondent No.12 – Company, his legal remedy lies in filing Civil Suit or take recourse to any other civil law remedy for adjudication and enforcement of his rights *qua* respondent No.12 – Company or anyone claiming through them as the case may be.
- C The writ petition under Article 32 of the Constitution is not the remedy for agitating any such grievance.
- D 18. It is not in dispute that the parties are already prosecuting their grievances against each other in Civil Court in their respective civil suits filed by them against each other. If that be the position, the same have to be pursued by them in accordance with law against each other.
- E 19. So far as the raising of other grievances as set out *supra* by the writ petitioner against the other respondents are concerned, suffice it to say, this court by order dated 11.07.2018 had issued notice to the official respondents Nos.7 to 11. These respondents pursuant to the notice issued have filed their respective status report in relation to the inquiries, which is being undertaken by them in their respective jurisdiction. We have perused the same.
- F 20. Needless to say depending upon the outcome of the inquiry once it is completed by the respective official respondents in their exclusive jurisdiction under various Acts, the appropriate action as provided in law will follow against all those who are found guilty.
- G 21. Before parting, we make it clear that we have not expressed any opinion on several factual issues alleged and denied by all the parties against each other in this writ petition and in respective IAs.
- H 22. This order, therefore, will not influence any authority or the Court or ongoing inquiry or proceedings while dealing with any issue. The same has to be dealt with uninfluenced by this order.

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23. In view of the foregoing discussion, it is not necessary to entertain several IAs bearing Nos.3739/2018, 176284-85/2018, D.No.110020/2018, 160094/2018, 171501/2018, 160094/2018, 163098/2018, D. No.175943-47/2018, 144019/2018, 81895/2018, 165472/2018, 163874/2018, 157884/2018, 115735/2018 and 2974/2019, filed by different applicants for claiming various reliefs *qua* respondent No.12 – Company, in relation to their individual and collective grievances. A

24. All such applicants would be at liberty to raise their grievances *qua* respondent No.12 – Company whether individually or severally for adjudication of their rights before an appropriate Judicial Forum in accordance with law. B

25. It is with these observations, we find no merit in this writ petition, which fails and is accordingly dismissed. C

Ankit Gyan

Petition dismissed.