

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABDAD BENCH

~~NEW DELHI~~

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O.A. No. 360 OF 1989  
~~TA No.~~

DATE OF DECISION 18-10-1989

Shri P. Basu PetitionerMr.S. Tripathi Advocate for the Petitioner(s)

Versus

Union of India and others. RespondentMr.R.J. Oza, Advocate for the Respondent(s)  
Mr.J.D. Ajmera.

## CORAM :

The Hon'ble Mr. P.H.Trivedi : Vice Chairman

The Hon'ble Mr. P.M.Joshi : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

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P. Basu,  
Managing Director,  
Gujarat Dairy Development Corpn.,  
Sector 16,  
Gandhinagar.

... Applicant

( Advocate : Mr.S.Tripathi )

Versus

1. The State of Gujarat,  
Notice to be served through  
the Chief Secretary to the  
Government of Gujarat,  
Sachivalaya, Gandhinagar.
2. The Union of India,  
Notice to be served through,  
the Secretary,  
Department of Personnel &  
Training, New Delhi.
3. Shri M.P.Parekh,  
Director General,  
Gandhi Labour Institute,  
Thaltej Road,  
Ahmedabad - 380 052.

... Respondents-

( Advocate : Mr.R.J.Oza  
Mr.J.D.Ajmera )

18/10/1989

Per : Hon'ble Mr.P.H. Trivedi : Vice Chairman

Learned advocate Mr.S.Tripathi for the petitioner heard Mr.Anil Dave for the respondent Government of Gujarat wants time to file reply for admission. The petitioner after subjecting himself to disciplinary proceedings apprehends that the proceedings will not be conducted according to law and they have violated the principle of natural justice and have deprived him of the opportunity to defend himself. He claims that he has been proceeded against for negligence which is not a misconduct. In reply to our query why he did not take recourse to courts if he objected to the disciplinary proceedings against him being illegal in terms of the

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chargesheet against him, learned advocate stated that he thought that if the enquiry were legally conducted and were according to natural justice he would have nothing to fear, but in the course of disciplinary proceedings he found that the respondent Government of Gujarat for one reason or another is only interested in prolonging the enquiry and he examined witnesses who have no personal knowledge of the facts of the case. Even when original documents were available photostat copies have been allowed to be produced and the attempt of the applicant to cross examine the witnesses has been stalled by the Enquiry Officer and the question put by him were disallowed and are not even recorded. The Presenting Officer has closed his evidence and the Enquiry Officer by misapplication of law has exhibited the documents presented by the above mentioned witnesses. A set of the copies of the documents were given to the petitioner but it is so voluminous that he could not completely peruse these documents within 3 or 4 hours and it was impossible for him to put questions on those documents. Instead of appreciating his difficulties and giving an adjournment to permit him to peruse the documents for cross examination of witnesses, the petitioner's questions were disallowed and are not even recorded. The petitioner requested the Enquiry Officer to recall the witnesses and permit their cross examination. On the 1st May, 1989 the Presenting Officer and the petitioner were heard but the closure of the case by the presenting officer and on the refusal by the Enquiry Officer to recall the witnesses for cross examination or to grant adjournment to the petitioner for perusal of the documents, the petitioner apprehends that he would be seriously prejudiced in his defence. The petitioner has also asked for interim orders for restraining the respondent No.3 to refrain from continuing the disciplinary proceedings against the

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petitioner. Learned advocate for the petitioner was heard at length. He has cited a number of cases to show that enquiries conducted contrary to the rules of natural justice or prejudicing a fair defence of the delinquent officer should be set aside. When asked why the enquiry should not be allowed to be gone through and if the procedure adopted is found to have been vitiated by misapplication of law or by arbitrariness or malafide or is illegal how would the petitioner be prejudiced if he still has chance to urge. These facts before the disciplinary or appellate authority and why should ~~be~~ the courts, allow themselves to be used for intervention when the enquiry is in progress, to which the petitioner has admittedly subjected himself, learned advocate for the petitioner has argued that as soon as it is found that the enquiries are vitiated by gross illegality the petitioner gets a right to ask for the intervention of the courts in support of which he has cited some cases listed by him.

2. / At this stage we are by now means persuaded that there are good and sufficient grounds for allowing admission of the application. However, there are certain circumstances ~~surged~~ in the petition which require the respondents to clarify the situation and to ascertain so far as respondent Government of Gujarat is concerned that the course adopted by respondent No.3 is legal and proper so that a fair statement can be made before us ~~in~~ in the light of which further orders could be passed.


3. Accordingly, pending admission ~~issue~~ notice to the respondents to reply on interim relief within 15 days and on merits within usual period. While we do

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not wish at this stage to give any directions for ~~admiss~~ ad interim relief, we are confident that the respondent authorities will not take any steps which is liable to be interpreted as causing any prejudice to the petitioner.

  
( P.M. Trivedi )  
Vice Chairman

  
( P.M. Joshi )  
Judicial Member