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O.A. No.141/2007Order dated: 31.08.2007

The Applicant has filed this O.A. praying for revocation of the order of Disciplinary Authority dated 29.12.2006, at Annexure-A/6, appointing Sri Pradeep Kumar Panda, Addl. Secretary (Retd.), Finance Department, as Inquiry Officer to enquire into the charges framed against the Applicant and for supply of copies of the documents listed in Annexure-III to the Articles of Charge at Annexure- A/2, to enable the Applicant to prepare and submit his written statement of defence.

2. The Single Member Bench, by order dated 17.04.2007, while directing issuance of notices to the Respondents, passed the following interim order of stay:

“..... As an ad interim measure, the Disciplinary Proceedings shall not be conducted without leave of this Tribunal....”

3. When this O.A. was listed on 30.08.07 for orders and directions in M.A.320/07 for vacation of stay, neither the Ld. Counsel for the Applicant M/s Chitra Padhi and M. Devi nor the Ld. Counsel for the Respondents Mr. D.K. Behera, excepting the party in person, appeared before this Bench, on account of advocates strike on Court work before this Bench on the basis of purported resolution passed by the C.A.T. Bar Association. In this connection I would like to refer to the decision in the case of Ramon Services Pvt. Ltd. Vrs. Subhas Kapoor and others KT 2000 (Suppl.2) SC 546, wherein Their Lordships, in paragraphs 24, 27 and 28 of the judgement, have held that no advocate can take it for granted that he will appear in the Court according to his whims and fancies or conveniences. It would be

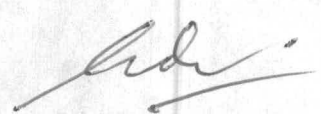


against professional ethics for a lawyer to abstain from the Court when the cause of his client is called for hearing or further proceedings. In appropriate cases the Court itself can pass effective orders for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system. Inaction will surely contribute to the erosion of ethics and values in the legal profession and the defaulting Courts may also be contributory to the contempt of the Hon'ble Apex Court. Keeping in view the case law laid down by the Hon'ble Supreme Court, the materials available on record were perused and order reserved which is passed hereby.

4. The Applicant in person, who argued his case, stated that his Counsel did not attend the hearing on 30.08.2007 in the circumstances stated above and prayed that if a direction could be given to supply the documents that were required by him before the concerned Authorities of his Department, it would enable him to effectively file his statement of defence and such disposal of this O.A. itself is sufficient.

5. The Respondents seem to have not filed counter except objection to interim prayer as well as M.A. for vacation of interim order of the stay, as already stated above. Both the M.A as well as objection referred to above, have been carefully gone through.

6. It appears that the disciplinary proceeding is not at all completed and therefore, no order has yet been passed by the Disciplinary Authority against him. Hence it is clear that the matter is now processed for the proceedings to be completed which may end perhaps even in favour of the Applicant. For the disciplinary



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proceedings to be completed for or against the Applicant by the Disciplinary Authority, as requested by the Applicant the supply of documents listed in Annexure-III to the charge memo is needed to give his effective statement of defence.

7. Under the aforesaid circumstances, I consider that since the proceedings are not completed and no order is passed inflicting injury to the applicant so far, this O.A. is premature as at this stage. However, before parting with, I would observe that the Respondent No.3, the Disciplinary Authority should furnish the copies of the documents asked for by the Applicant thereby enabling him to file statement of defence effectively. Copies of such documents should be furnished to the Applicant by the Disciplinary Authority within a period of 15 days from the date of receipt of the copy of the order with an opportunity to the applicant to file written statement of defence within 15 days from the date of receipt of the copies of the said documents and thereafter the inquiry should proceed as per law. I would also observe that if the supply of copies of any of the listed documents is not possible, then necessary steps should be taken by the Inquiry Officer to allow the applicant to peruse the said documents.

8. In the result this O.A. is disposed of with the aforesaid observations.


(N.D. RAGHAVAN)
VICE-CHAIRMAN