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

\+ W.P.(C) 16294/2025, CM APPL. 66617/2025

SIDDARTH PRADHAN .....Petitioner

Through: Mr. Ankur Chhibber, Adv.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Akhil Mittal, Sr. PC with Ms. Riddhi Jain and Ms. Shayna Das Pattanayan, Advs. for UOI

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 04.12.2025

C. HARI SHANKAR, J.

1. This writ petition assails order dated 19 September 2025, passed by the Principal Bench of the Armed Forces Tribunal[1], dismissing OA 2850/2025.

2. The conspectus of the controversy being limited, no detailed allusion to facts is necessary.

3. Based on certain allegations against the petitioner, a Court of Inquiry[2] was constituted. Consequent on the findings of the COI, a decision was taken that, in view of the nature of the allegations against

[1] "AFT", hereinafter
[2] "COI", hereinafter

the petitioner and the confidentiality of the issues involved, administrative action be taken to terminate his services. The petitioner was, therefore, issued a show cause notice dated 23 September 2024, proposing to dismiss the petitioner from service following the findings of the COI and giving him an opportunity to show cause thereagainst under Rule 16(4)[3] of the Air Force Rules, 1969.

4. The petitioner filed his response to the show cause notice.

5. Instead of allowing the show cause notice to be adjudicated, the petitioner moved the AFT by way of OA 2850/2025. The prayer clause in the OA read thus:

> "In view of the facts and circumstances stated above, it is most respectfully and humbly prayed that this Hon'ble Tribunal may be pleased:
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> (a) To quash the findings and recommendations of of COI conducted in pursuance of convening orders dated 10.01.2024 and 10.04.2024 as being violative of Rule 156 of Air Force Rules, 1969;

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16. Dismissal or removal of officers for misconduct.—
(1) An officer may be dismissed or removed from service for misconduct by the Central Government but before doing so and subject to the provisions of sub-rule (2) he shall be given an opportunity to show cause against such action.
(2) Where the dismissal or removal of an officer is proposed on ground of misconduct which has led to his conviction by a criminal court, or where the Central Government is satisfied that for reasons to be recorded in writing, it is not expedient or reasonably practicable to do so, it shall not be necessary to give an opportunity to the officer of showing cause against his dismissal or removal.
(3) Where an officer has been convicted by a criminal court and the Central Government, after examining the judgment of the criminal court in his case and considering the recommendation about him of the Chief of the Air Staff, is of opinion that further retention of such officer in the service is undesirable that Government may dismiss or remove such officer from the service.
(4) In any case not falling under sub-rule (3), when the Chief of the Air Staff after considering the reports on an officer's misconduct, is of opinion that the trial of the officer by a court-martial is inexpedient or impracticable but the further retention of the officer in the service is undesirable, he shall so inform the officer and subject to the provisions of sub-rule (5) furnish to the officer all reports adverse to him calling upon him to submit in writing within a reasonable period to be specified, his explanation in defence and any reasons which he may wish to put forward against his dismissal or removal.

(b) To quash the show cause notice dated 23.09.2024 issued by the Chief of Air Staff proposing to dismiss the Applicant while dispensing with the requirement of convening the General Court Marital under Rule 16 of Air Force Rules, 1969; AND

(c) Any other relief/reliefs which this Hon'ble Tribunal considers fair and proper to grant in the interest of justice."

6. The AFT has, by order dated 19 September 2025, declined to interfere in the matter.

7. Aggrieved thereby, the petitioner has instituted the present writ petition before this Court.

8. We have heard Mr. Ankur Chhibber, learned Counsel for the petitioner and Mr. Akhil Mittal, learned Senior Panel Counsel for the respondents, at some length.

9. Mr. Chhibber submits that there has been fatal violation of Rule 156(2)[4] of the Air Force Rules during the course of proceedings in the COI and that, therefore, the findings of the COI were of no legal consequence. Inasmuch as the said findings constituted the basis of the show cause notice and the proposal, voiced in the show cause notice, to dismiss the petitioner from service, he submits that a clear case for setting aside the show cause notice as well as the findings of the COI were made out and that the Tribunal erred in refusing to interfere.

[4] (2) Save in the case of a prisoner of war who is still absent, whenever any inquiry affects the character or service reputation of a person subject to the Act, full opportunity must be afforded to such person of being present throughout the inquiry and of making any statements and of giving any evidence he may wish to make or give, and of cross-examining and witness whose evidence, in his opinion, affects his character or service reputation, and producing any witnesses in defence of his character or service reputation.

10. As against this, Mr. Chhibber has placed reliance on the judgments of the Supreme Court in ***UOI v. EX. No.3192684 W. SEP. Virendra Kumar***[5] and ***UOI v. Sanjay Jethi***[6].

11. The judgment in ***Virendra Kumar,*** to our view, actually militates against the stand that Mr. Chhibber seeks to espouse. In the said case, a COI was held, followed by a Court Martial and, after the Court Martial had returned a verdict against the respondent, Virendra Kumar before the Supreme Court, the matter was carried to the AFT. The AFT ruled in favour of Virendra Kumar, against which the Union of India approached the Supreme Court.

12. One of the grounds on which Virendra Kumar was granted relief was that there was a breach of Rule 180[7] of the Army Rules, 1954, during the course of the COI. The Supreme Court has ruled, in its judgment, that, no plea of violation of Rule 180 having been taken at the stage of recording of the statement of witnesses, framing of charge, recording of summary of evidence or *during the Court Martial proceedings*, it was not open to Virendra Kumar to raise the ground of non-compliance of Rule 180 after the final verdict of the Court Martial have been returned. This makes it clear that the grounds of procedural

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[5] **(2010) 2 SCC 714**

[6] **(2013) 16 SCC 116**

[7] **180. Procedure when character of a person subject to the Act is involved.** Save in the case of a prisoner of war who is still absent whenever any inquiry affects the character or military reputation of a person subject to the Act, full opportunity must be afforded to such person of being present throughout the inquiry and of making any statement, and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence, in his opinion, affects his character or military reputation and producing any witnesses in defence of his character and military reputation. The presiding officer of the court shall take such steps as may be necessary to ensure that any such person so affected and not previously notified receives notice of and fully understands his rights, under this rule.

violations during the COI are open to be urged during the Court Martial proceedings which follow the findings of the COI.

13. In the present case, given the existing circumstances, a decision was taken to proceed administratively, dispensing with the requirement of a GSFC and visiting the petitioner with a show cause notice to which he was required to respond. The petitioner has done so. The plea of violation of Rule 156 of the Air Force Rules would always be open to the petitioner to be urged before the authority, who has issued the show cause notice, as was open to Virendra Kumar, the respondent before the Supreme Court, to be urged before the authority conducting the General Court Martial. In the event that no such plea is raised before the authority issuing the show cause notice, Virendra Kumar would prohibit raising of such plea once the show cause notice is adjudicated.

14. It is, therefore, clear to our mind that there was no bar to the petitioner raising the pleas regarding procedural violations during the course of holding of the COI before the authority issuing the show cause notice.

15. In that view of the matter, we do not find any jurisdictional or other error in the decision of the AFT refusing to interfere with the proceedings at show cause notice stage.

16. It is true that there is no absolute bar to a Court refusing to interfere even when a show cause is pending. The matter is always

one of discretion, which has to be judicially exercised. Recently, the Supreme Court has held in ***State of Jharkhand v. Rukma Kesh Mishra***[8] that, where a show cause notice had been issued, ordinarily Courts should refrain from interfering. Cases in which the show cause is bad for want of jurisdiction, or where there is a violation of fundamental rights or where there is patent violation of the principles of natural justice during the proceedings in the show cause notice, may constitute grounds to interfere. However, the breach of following the prescribed procedure during the COI is certainly a ground which can be urged before the authority deciding the show cause notice and, therefore, if the AFT did not deem it appropriate to interfere in the matter, we are not of the view that a case is made out for us to interfere with the decision of the AFT.

17. We re-emphasize the point, which we have had occasioned to emphasize earlier as well, that we are not sitting in appeal over the decision of the AFT. Our jurisdiction is one of *certiorari.* It stands circumscribed by the law declared in the following passages from the judgment of the Supreme Court in ***Syed Yakoob v. K.S. Radhakrishnan***[9]:

> "7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court*

[8] **2025 SCC OnLine SC 676**
[9] **AIR 1964 SC 477**

or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. *An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised* (*vide* ***Hari Vishnu Kamath v Syed Ahmad Ishaque***[10]***, Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam***[11] *and* ***Kaushalya Devi v Bachittar Singh***[12]*.*

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; hut it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of*

[10] **AIR 1955 SC 233**
[11] **AIR 1958 SC 398**
[12] **AIR 1960 SC 1168**

> *certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record*. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but *there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record*. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened."
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> (Emphasis supplied)

18. Within the limited parameters of *certiorari* jurisdiction, we do not feel that the decision of the AFT in the present case is one which merits interference under Article 226 of the Constitution of India. The writ petition is accordingly dismissed in *limine.*

19. Needless to say, we have not expressed any view on whether there was any infraction of Rule 156 at the stage of the COI. It shall be open to the petitioner to urge this submission before the authority to whom the show cause notice was made answerable. In the event that such a plea is raised, the said plea as well as other pleas raised by the petitioner with respect to the legality, procedurally or otherwise, of the proceedings against him, would be addressed by the authority deciding the show cause notice.

20. Subject to the above clarification, the writ petition is dismissed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 4, 2025*/aky*