

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8825 of 2025
Date of Decision: 06.10.2026

Kehar Singh

.....Petitioner

Versus

State of Himachal Pradesh and Others

.....Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Hon'ble Mr. Justice Yogesh Jaswal, Judge

Whether approved for reporting? Yes.

For the petitioner: Ms. Aruna Sharma, Advocate.

For the respondents: Mr. Pushpinder Singh Jaswal and Mr. Ramakant Sharma, Additional Advocates General.

Ajay Mohan Goel, J. *(Oral)*

By way of this petition, the petitioner has, inter alia, prayed for the following reliefs:

“i. That the writ in the nature of the certiorari may kindly be issued in favour of the petitioner and against the respondents and the office order dated 13.02.2025 (annexure P-6) may very kindly be quashed and set aside.

ii. That the writ in the nature of the certiorari may kindly be issued in favour of the petitioner and the said condition contained in clause 8(ii) of notification dated 19.09.2017 Annexure P-8, may very kindly be quashed and set aside being unreasonable unjustified.

iii. That the writ in the nature of mandamus may kindly be issued in favour of the petitioner and against the respondents and the respondents may very kindly be directed to reengage/appoint the petitioner as Gram Panchayat Veterinary Assistant in Panchayat Veterinary Dispensary, Lower Hatt, Tehsil Bhunter Distt. Kullu, H.P. without any break in service and with all consequential benefits.”

2. Facts necessary for the adjudication of this petition are that the petitioner herein was engaged as a Gram Panchayat Veterinary Assistant in terms of office order dated 05.09.2020 (Annexure P-1). An FIR was registered against the petitioner on 25.12.2024 under Sections 20, 29, 61 and 85 of the NDPS Act at Police Station Jawalamukhi, District Kangra, in which, he was arrested on 29.12.2024. The FIR was registered while the petitioner was serving as a Panchayat Veterinary Assistant at Panchayat Veterinary Dispensary, Lower Hat, District Kullu. As a result of the registration of the FIR against the petitioner and consequent upon his arrest by Police Station Jawalamukhi on 29.12.2024, a show cause notice was issued to him by the respondent-Authority on 06.01.2025 why his services be not terminated, as he was not maintaining proper discipline etc. in his capacity as a Panchayat Veterinary Assistant in terms of the conditions of his appointment letter. The show cause notice, as this Court has been informed, was

served upon the father of the petitioner, as the petitioner was in custody.

3. As per learned counsel for the petitioner, in light of the fact that the petitioner was in custody, when the show cause notice was issued, he could not file any response thereto and in terms of Annexure P-6, office order dated 13.02.2025, the services of the petitioner as Panchayat Veterinary Assistant have been terminated with immediate effect, as per the directions received from the Director, Animal Husbandry, Himachal Pradesh vide letter dated 30.01.2025, by Deputy Director, Animal Health/Breeding, Kullu, District Kullu.

4. Learned counsel for the petitioner submitted that the impugned order is *per se* not sustainable in law. She submitted that as the petitioner was arrested on 29.12.2024 and he remained in custody till he was released on 12.03.2025, in the absence of any show cause notice having been served upon him physically, he could not file any response thereto, and the circumstances in which the response to the show cause notice was not filed by the petitioner have not been appreciated by the respondents and the impugned order has been issued by observing that despite service of a show cause notice, no reply was received from the petitioner.

5. She submitted that it is settled principle of law that any order which has grave civil consequences, as far as a person is concerned, cannot be passed at his back. Learned counsel further submitted that in the present case, the impugned order has grave civil consequences as far as the petitioner is concerned, as his services have been terminated, without affording him a proper opportunity of being heard, which defies the well settled principle of natural justice. She submitted that as the impugned order per se is violative of Article 14 of the Constitution of India and as the petitioner has been condemned unheard, the present petition be allowed by setting aside office order dated 13.02.2025 and by ordering reinstatement of the petitioner with all consequential benefits.

6. On the other hand, learned Additional Advocate General, by referring to the reply filed by the respondent-Department, submitted that the petitioner was appointed as a Gram Panchayat Veterinary Assistant vide Annexure P-1 at Bera Veterinary Dispensary Advani, District Kangra and on 18.08.2022, he was transferred to Panchayat Veterinary Dispensary, Lower Hat. In light of an FIR being registered against the petitioner under the provisions of the NDPS Act and the petitioner being taken into custody in the said FIR, a show cause notice was issued to him and as no reply was filed to the same despite service

of the same upon the petitioner, the Authorities rightly terminated his services by invoking the provisions of Clause 8(ii) & (iii) of Notification dated 19.09.2017, which relates to the posting of Gram Panchayat Assistants under the Policy called "*Mukhya Mantri Arogya Yojana*".

7. Learned Additional Advocate General submitted that the conduct of the petitioner does not entitle him to continue to serve with the respondent-Authority. He submitted that the petitioner was arrested for having committed offences under the NDPS Act, which are grave and heinous offences, and it is in light of this fact that after issuance of a show cause notice, the services of the petitioner were dispensed with. He further submitted that the notice was duly served upon the petitioner through his father, Mr. Ghanshyam, at the house of the petitioner, which is evident from Annexure R-1 and nothing prevented the petitioner from filing a response thereto well in time, though later on, a reply was filed thereto by him, copy whereof is appended with the petition as Annexure P-7. Learned Additional Advocate General submitted that in the reply which has been filed by the petitioner, i.e., Annexure P-7, dated 19.03.2025, there is no mention of the fact that no notice etc. was served upon him in time or that his father did not intimate him of the notice served, as response to the show cause notice therein is on merits.

8. He further submitted that the decision by the Authority to terminate the services of the petitioner has been taken in terms of notification dated 19.09.2017, reference whereof is given in the reply, and there is no challenge to the said notification by the petitioner. Accordingly, learned Additional Advocate General submitted that as there is no merit in the present petition, the same be dismissed.

9. Learned counsel for the petitioner, in rebuttal, submitted that the notice which was issued by the Department might have been served upon the father of the petitioner, but it was not served upon the petitioner and nothing prevented the Department from serving the notice directly upon the petitioner, as it is not the case of the Department that they were not aware of the whereabouts of the petitioner. She submitted that as the petitioner was in judicial custody, the Authorities should have served the notice upon the petitioner in jail itself, and she reiterated that in the present case, the petitioner was condemned unheard.

10. We have heard learned counsel for the parties and have also carefully gone through documents appended with the pleadings as also the impugned order.

11. Facts are not much in dispute. As a result of an FIR having been registered on 25.12.2024 at Police Station Jawalamukhi under

the provisions of the NDPS Act, the petitioner was arrested on 29.12.2024 and initially, he remained in police custody and thereafter, in judicial custody, till he was released on bail on 12.03.2025.

12. In the interregnum, a show cause notice was issued by the Department to the petitioner why his services be not terminated on account of his being involved in a criminal offence, which show cause notice was served upon the father of the petitioner and not the petitioner. It is also a matter of record that no response to the show cause notice was filed by the petitioner as up to the issuance of the impugned order, Annexure P-6, dated 13.02.2025.

13. Though it is a matter of record that the notice dated 06.01.2025 was served upon the father of the petitioner, but we are of the considered view that in the peculiar facts of this case, wherein the respondents were knowing the whereabouts of the petitioner and it was in the knowledge of the respondents that the petitioner was in judicial custody, the respondents should have served the notice directly upon the petitioner through the Jail Authorities, rather than serving the same upon his father.

14. Obviously, as the petitioner remained in custody till 12.03.2025 and as no notice was served upon him in person, the findings returned in the impugned order that despite service of a show

cause notice, no reply was received from the petitioner, are not sustainable in law.

15. As no show cause notice was served upon the petitioner personally, more so, in light of the fact that there was no impediment in the service of the said show cause notice upon him in person, the passing of the impugned office order without giving a proper opportunity of being heard to him nullifies the impugned order.

16. Annexure P-7, which is the reply filed by the petitioner to the show cause notice dated 19.03.2025, cannot cure the defect that has been committed by the Authorities, for the reason that it was incumbent upon the Authorities to have had served the show cause notice directly upon the petitioner in the peculiar facts of the case, in the absence of this having been done, they cannot be allowed to take advantage of their own act of omission.

17. It is well settled law that no order which has civil consequences can be passed by an Authority at the back of the person. The Hon'ble Supreme Court of India in *D.K. Yadav versus J.M.A. Industries*, (1993) 3 SCC 259, has been pleased to hold that any order which has grave civil consequences, cannot be passed without hearing the affected person. Relevant Paras of the judgment passed in *D.K. Yadav's case* (supra) read as under:

“8. The cardinal point that has to be borne in mind, in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially. It is not so much to act judicially but is to act fairly, namely, the procedure adopted must be just, fair and reasonable in the particular circumstances of the case. In other words application of the principles of natural justice that no man should be condemned unheard intends to prevent the authority to act arbitrarily effecting the rights of the concerned person.

9. It is a fundamental rule of law that no decision must be taken which will effect the right of any person without first being informed of the case and be given him/ her an opportunity of putting forward his/ her case. An order involving civil consequences must be made consistently with the rules of natural justice. In Mohinder Singh Gill and Anr. v. The Chief Election Commissioner and Ors. [1978] 2 SCR 272, the Constitution Bench held that 'civil consequences' covers infraction of not merely property or personal right but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation everything that affects a citizen in his civil life inflicts a civil consequence. Black's Law Dictionary, 4th Edition, page 1487 defined civil rights are such as belong to every citizen of the State or country - they include-rights capable of being enforced or redressed in a civil action - In State of Orissa v. Dr. (miss) Binapani Dei and Ors. (1967) 2 LLJ 266 SC, this court held that even an administrative, order which involves civil consequences must be made consistently with the rules of natural justice. The person concerned must be informed of the case. The evidence in support thereof supplied and must be given fair opportunity to meet the case before an adverse decision is taken. Since no such opportunity was given it was held that superannuation was in violation of principles of natural justice.

10. In State of West Bengal v. Anwar Ali Sarkar 1952 Cri LJ 510, per majority, a seven Judge bench held that the rule of procedure laid down by law comes as much within the purview of Article 14 of the

Constitution as any rule of substantive law. In Maneka Gandhi v. Union of India, [1978] 2 SCR 621, another bench of seven judges held that the substantive and procedural laws and action taken under them will have to pass the test under Article 14. The test of reason and justice cannot be abstract. They cannot be divorced from the needs of the nation. The tests have to be pragmatic otherwise they would cease to be reasonable. The procedure prescribed must be just, fair and reasonable even though there is no specific provision in a statute or rules made there under for showing cause against action proposed to be taken against an individual, which affects the right of that individual. The duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to take punitive or damaging action. Even executive authorities which take administrative action involving any deprivation of or restriction on inherent fundamental rights of citizens, must take care to see that justice is not only done but manifestly appears to be done. They have a duty to proceed in a way which is free from even the appearance of arbitrariness, unreasonableness or unfairness. They have to act in a manner which is patently impartial and meets the requirements of natural justice.

11. The law must therefore be now taken to be well-settled that procedure prescribed for depriving a person of livelihood must meet the challenge of Article 14 and such law would be liable to be tested on the anvil of Article 14 and the procedure prescribed by a statute or statutory rule or rules or orders effecting the civil rights or result in civil consequences would have to answer the requirement of Article 14. So it must be right, just and fair and not arbitrary, fanciful or oppressive. There can be no distinction between a quasi-judicial function and the administrative function for the purpose of principles of natural justice. The aim of both administrative inquiry as well as the quasi-judicial enquiry is to arrive at a just decision and if a rule of natural justice is calculated to secure justice or to put it negatively, to prevent miscarriage of justice, it is difficult to see why it should be applicable only to quasi-

judicial enquiry and not to administrative enquiry. It must logically apply to both.

12. Therefore, fair play in action requires that the procedure adopted must be just, fair and reasonable. The manner of exercise of the power and its impact on the right of the person affected would be in conformity with the principles of natural justice.

Article 21 clubs life with liberty, dignity of person with means of livelihood without which the glorious content of dignity of person would be reduced to animal existence. When it is interpreted that the colour and content of procedure established by law must be in conformity with the minimum fairness and processual justice, it would relieve legislative callousness despising opportunity of being heard and fair opportunities of defence. Article 14 has a pervasive processual potency and versatile quality, equalitarian in its soul and allergic to discriminatory dictates. Equality is the antithesis of arbitrariness.

It is, thereby, conclusively held by this Court that the principles of natural justice are part of Article 14 and the procedure prescribed by law must be just, fair and reasonable.”

18. Herein, the impugned order, which has resulted in the termination of the services of the petitioner, has been passed at his back. In the absence of any show cause notice having been served upon the petitioner, there was no occasion for him to have filed any response thereto within the time span mentioned therein and the subsequent filing of the reply to the said show cause notice by the petitioner after he was released on bail, when probably the show cause notice which was served upon his father was brought to his notice, cannot be taken as an acquiescence on his part to the said show cause notice. This is,

more so, in light of the fact that the show cause notice is dated 06.01.2025; impugned office order is dated 13.02.2025; release of the petitioner from jail on bail is dated 12.03.2025; and Annexure P-7 is dated 19.03.2025.

19. Accordingly, in light of the above discussions, as we are of the considered view that in the peculiar facts of the case, impugned office order dated 13.02.2025 is not sustainable in the eyes of law, as the same has been passed without affording a proper opportunity to the petitioner to put forth his case, this writ petition is allowed. Office order dated 13.02.2025 (Annexure P-6) is quashed and set aside. Consequences to ensue.

20. However, in light of the fact that the petition is being allowed on technical grounds, as prayed for by learned Additional Advocate General, the setting aside of the impugned office order dated 13.02.2025 shall not come in the way of the Department in case they intend to proceed against the petitioner again as per law.

21. In light of the fact that the impugned office order has been quashed by the Court, the respondent-Authorities shall forthwith allow the petitioner to join the post against which he was working when his services were terminated.

With the aforesaid observations, the writ petition stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(Ajay Mohan Goel),
Judge**

**(Yogesh Jaswal),
Judge**

October 06, 2026
Rajeev Raturi