

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT APPEAL NO. 3 OF 2013**

Dr. B.N. Dewangan S/o Kailash Nath Dewangan, aged about 51 years, R/o District Hospital Durg, District Durg (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through Town Inspector, Police Station Newai, Tahsil and District - Durg (C.G.)
2. Superintendent of Police, Durg, District Durg (C.G.)
3. Chief Medical and Health Officer, Govt. Durg District Hospital, District Durg (C.G.)
4. Shri S.K. Roy Roy and Associates, 64/2 Nehru Nagar (E), 1st Floor, Bhilai 490020, Tahsil and District Durg (C.G.)
5. Shri P.K. Shrivastava, 88/5 Maitri Nagar, Risali, Tahsil & District Durg (C.G.)
6. Dr. R.K. Nayak, Medical Officer, Govt. Durg District Hospital, District (C.G.)
7. Director of Medical and Health Services, Government of Chhattisgarh, Raipur (C.G.)
8. Principal Secretary, Family Health and Welfare Department, Government of Chhattisgarh, Secretariat, Mantralaya, DKS Bhawan, GE Road Raipur (CG)
9. C.P. Gandhi S/o Lt. Shri T.R. Gandhi, Ex-Dy G.M. (Incharge G.M.), Bhilai Refractories Plant, R/o Plot No. 40/46, Street-13, Pragati Nagar, Risali, Tah. and Dist. Durg (C.G.)

---- Respondents

For Appellant	:	Mr. Bhaskar Payasi, Advocate.
For Respondent-State	:	Mr. U.N.S. Deo, Government Advocate.
For Respondent No.9	:	Mr. V.G. Tamaskar, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy, J.

Judgement on Board

Per NAVIN SINHA, C.J.

05/05/2015

1. The present Appeal arises from order dated 18.9.2012 in Writ Petition (Cr.) No.3734 of 2011 preferred by Respondent No.9. The Appellant is aggrieved by the direction for initiation of appropriate inquiry against him after providing due opportunity to him without being influenced by the order.

2. In the nature of the order that we propose to pass, it is not considered necessary to take note of the facts and circumstances of the case except to the extent necessary lest it may prejudice the case of either party. Suffice it to observe that the only issue for consideration before us is whether there was any material before the learned Single Judge or not, to observe for an inquiry

against the Appellant. We are not concerned at this stage with the sufficiency of the materials and whether it would end in exoneration or guilt.

3. The Appellant is stated to have given a medical opinion with regard to certain injuries caused to Respondent No.5 allegedly by Respondent No.9. The Appellant opined that there was fracture of head of first phalainx (proximal) of index finger of right hand. Respondent No.9 questioned that report in Writ Petition (C) No.2790 of 2008. On 19.10.2010, the Court ordered fresh medical examination of the finger of Respondent No.5. It is not in dispute that the matter was re-examined by the Medical Board and which is the bone of contention now. The Medical Board on 24.1.2011 examined the earlier radio-graphs of Respondent No.5 on basis of which the Appellant is stated to have given his opinion to arrive at a conclusion that there was no fracture seen in the x-ray plates. The Medical Board further opined from fresh x-ray examination that there also did not appear to be any fracture recent or old seen.

4. Prima facie, we are of the opinion that it cannot be said that the observations of the learned Single Judge were made without any materials. This cannot be construed or opined as any opinion or observation by us on the correctness of the report of the Medical Board as sustainable material against the Appellant.

5. Needles to observe that in the event of such an inquiry being held, the departmental authorities will have to arrive at their own independent, reasoned conclusion after full opportunity of defence to the Appellant and our order cannot be construed as any opinion or observation adverse to the Appellant at this stage.

6. With the aforesaid observations, the Writ Appeal is disposed.

(Navin Sinha)
Chief Justice

(P. Sam Koshy)
Judge