

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.2185 of 2016**

Babulal Patel S/o Shri Harichand Patel, Aged About 62 Years Occupation
Patwari, R/o Village Chaple, Post Rabertson, Thana & Tahsil Kharsiya, Civil &
Revenue Distt. Raigarh, (Chhattisgarh)

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue Department Mahanadi Bhawan, Capital Complex, Raipur, Distt Raipur, (Chhattisgarh)
2. Collector, Raigarh, Distt. Raigarh, (Chhattisgarh)
3. Deputy Collector, Raigarh, Distt Raigarh, (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Kharsiya, Distt. Raigarh (Chhattisgarh)

---- **Respondents**

For Petitioner	:	Shri Sumit Shrivastava, Advocate
For Respondent/State	:	Shri Gary Mukhopadhyay, Dy.GA

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/06/2016**

Heard on admission.

2. This petition is directed against the institution of departmental enquiry against the petitioner vide charge sheet dated 08-01-2016 and also against the appointment of Enquiry Officer and Presenting Officer vide order dated 20-04-2016. Challenge to institution of departmental enquiry is laid on twin grounds. Firstly that the Collector is not the appointing authority of the petitioner and it is the Sub Divisional Officer (Revenue), who is the appointing authority, therefore, the Collector has no jurisdiction and is not competent to initiate departmental enquiry against the petitioner. The second ground of challenge is that if the Collector acts as a disciplinary authority, the petitioner's right of appeal, in case of imposition of penalty, would be taken away. It is next submitted that the basis of initiation of departmental enquiry is complaint made by certain villagers that the petitioner had demanded and collected bribe through his own agents/touts. However, the villagers, later on, sworn affidavits filed along with the reply, in which, they have stated that the petitioner did not demand any bribe. Learned counsel for petitioner also submitted that the persons, through whom, bribe is alleged

to have been demanded and collected, have not been examined in the preliminary enquiry.

3. None of the grounds as stated by the petitioner calls for interference in the matter at this stage, when the enquiry is at the threshold. In view of the provision contained in Rule 12 and 13 read along with the schedule of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966, the Collector could be the disciplinary authority and there is no bar under the law. In the event, order of punishment is passed by the Collector, the petitioner would have remedy of appeal before the authority higher than the Collector.

As far as the factual submission with regard to withdrawal of complaints are concerned, at this stage, it cannot be decided whether the affidavits should be relied upon or not. Unless, the persons, who have made complaint, are examined by the Enquiry Officer, it would be pre-mature to make comment on the allegations of demand of bribe by the petitioner. Therefore, on this ground alone, the enquiry cannot be quashed.

In a departmental enquiry, enquiry can be initiated when the authority is satisfied that the prima facie case is made out. For this purpose, the authority may also hold preliminary enquiry. In the present case, some kind of preliminary enquiry has been held. The persons, who are alleged to be involved along with the petitioner, may not have been examined during the course of preliminary enquiry, therefore, it cannot be held that the charges are so frivolous and unsustainable in law that the enquiry should not be allowed to proceed and nipped at the bud without reaching the stage of recording of evidence. At this stage, no opinion can be formed one way or the other.

4. In view of foregoing, I am not inclined to interfere with the enquiry proceedings initiated against the petitioner.

5. Accordingly, the petition is dismissed.

Sd/-
Manindra Mohan Shrivastava
Judge