

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 477 of 2016

Dinesh Kumar Sahu S/o Late Shri Lakhan Lal Sahu, Aged About 27 Years Posted As Assistant Teacher (Panchayat), R/o Village & Post Khorpa, Police Station Abhanpur, District Raipur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Chief Executive Officer, Zila Panchayat, Raipur, District Raipur (Chhattisgarh).
3. The Chief Executive Officer, Janpad Panchayat, Abhanpur, District Raipur (Chhattisgarh).

---- Respondents

Mr. Goutam Khetrapal, counsel for the petitioner.
Mr. Satish Gupta, Government Advocate for the State on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

23/02/2016

Heard.

1. The petitioner has filed this petition challenging communications Annexure P/1 and Annexure P/2.
2. The submission of learned counsel for the petitioner is that on certain complaints, an enquiry was held and the Chief Executive Officer, Zila Panchayat, Raipur has recommended the Chief Executive Officer Janpad Panchayat Abhanpur to take the action for dismissal of services of some of the Shiksha Karmis including the petitioner. He has also directed the authority to take criminal action.

3. Submission of learned counsel for the petitioner is that in the preliminary enquiry which was made by the Chief Executive Officer, Zila Panchayat, Raipur terminating in direction Annexure P/2, no opportunity of hearing was afforded to the petitioner.

4. The contents of Annexure P/2 shows that the internal enquiry was made and Chief Executive Officer, Zila Panchayat Raipur has directed Chief Executive Officer, Janpad Panchayat Abhanpur to terminate services of the petitioner and institute criminal action.

5. It appears that in view of the aforesaid letter Annexure P/2, the petitioner is apprehending action.

6. However, the petitioner has also placed on record another communication dated 03.02.2016 which shows that later on, the proceedings based on enquiry report have been kept in abeyance and it has been again directed to hold minute scrutiny and for that purpose a committee of high official has been constituted.

7. From memo dated 03.02.2016 (Annexure P/1), at present, there should not be any apprehension on the part of the petitioner. It will all depends upon the result of enquiry by the Committee constituted vide order dated 03.02.2016 (Annexure P/1).

8. In case, any decision is taken by Zila Panchayat, Raipur to terminate the services of the petitioner or any order is passed, it would be open for the petitioner to challenge the action on such grounds as may be available to the petitioner in such an eventuality.

9. There is no reason or justification for this Court to direct the authority to afford the petitioner an opportunity of hearing before taking a decision whether or not to lodge report in the police station. No direction is required to be issued to show cause why criminal case should not be instituted.

10. However, a mere lodging of report does not take away the authority of the police to hold preliminary enquiry into the matter to find out whether or not a case of registration of criminal case is made out. It is only when FIR is registered, the petitioner would get a cause of action to challenge the same on such grounds as may be available to the petitioner.

11. Subject to the aforesaid observations, at this stage this petition is disposed off with liberty to take appropriate remedy in case any concrete decision is taken or adverse order is passed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E

Rekha