

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4944 of 2016

Ashwini Kumar Kant S/o Late Shri Bahoran Lal Kant, Aged About 46
Years Upper Division Teacher At Government Girls Middle School Pali,
Distirct Korba Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education
Department, Mahanadi Bhawan, Raipur Naya Raipur District Raipur
Chhattisgarh
2. Collector, Korba, District Korba Chhattisgarh
3. District Education Officer, Korba, District Korba Chhattisgarh
4. Principal, District Education And Training Institute Korba, Distirct Korba
Chhattisgarh

---- Respondents

For Petitioner	:	Shri Lalit Jangde, Advocate
For Respondent-State	:	Shri Dheeraj Wankhede, Govt. Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/09/2016

Heard on admission.

1. The petitioner seeks to challenge the institution of departmental enquiry instituted against the petitioner vide charge-sheet dated 23.02.2016.
2. Learned counsel for the petitioner submits that the institution of departmental enquiry is in malafide exercise of power against the petitioner by the District Education Officer/respondent No.3 because the petitioner happens to be an office bearer of the employees association.
3. Learned counsel for the petitioner submits that earlier the petitioner was

suspended and aggrieved by the attachment of the petitioner to a distinct place, he filed the petition which was disposed off with the direction to consider representation vide order dated 22.01.2016. Now, the respondents have issued charge-sheet. It is further submitted that the nature of allegation as contained in a show cause notice dated 20.11.2015 and charge-sheet dated 23.02.2016 are different which shows that somehow the respondents are attempting to victimize the petitioner.

4. Notice dated 20.11.2015 appears to be a notice only to make a preliminary enquiry before taking decision to institute regular departmental enquiry against the petitioner. After receipt of petitioner's reply, the respondents have now issued charge-sheet to the petitioner. This only reflects serious application of mind by the competent authority before instituting departmental enquiry even though there was no requirement of law to hold a preliminary enquiry before instituting regular departmental enquiry.

5. The allegations contained in the show cause notice earlier issued on 20.11.2015 broadly outlines allegations of misbehaviour with Vice Principal and other irregularities that the petitioner was not serious and was irregular in attending training. That does not mean that the respondents have instituted departmental enquiry on any other allegation against the petitioner. In fact one of the charges is of misbehaviour with the same Vice Principal, which has been mentioned in the show cause notice dated 20.11.2015. The allegation against the petitioner contained in other charges relate to certain alleged misbehaviour and obstruction. The allegation, if proved, do constitute a misconduct. Therefore, it cannot be said that even if what has been stated in the charge-sheet is proved, it would not tantamount to misconduct. Where those allegations are correct or not is a matter of enquiry where the petitioner would be afforded an opportunity of hearing to file reply, cross-examine prosecution witnesses, lead oral and documentary evidence in rebuttal of the oral and documentary evidence of the prosecution.

6. Therefore, in these circumstances, no case is made out for interference with the departmental enquiry.

7. At the last, learned counsel for the petitioner prayed that respondents be directed to expedite the enquiry. Presently, there is no occasion for this Court to issue any time bound direction because the enquiry is at the initial stages and

there is nothing to demonstrate that the enquiry has been delayed inordinately so as to warrant issuance of the time bound direction. In case, there is any unreasonable or undue delay in the enquiry for reasons not attributable to the petitioner, it will always be open for the petitioner to take recourse to appropriate remedy before the competent authority and / or Court of law.

8. The petition is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha