

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.1137 of 2017

Dr. Aruna Ojha, D/o late Shri Rampher Ojha, aged about 44 years,
Reader, Kayachikitsa Department, Government Ayurved College,
Raipur (C.G.)

---- Petitioner

Versus

1. Chhattisgarh State Scheduled Tribes Commission, 61, Jalvihar Colony, Raipur (C.G.)
2. Superintendent of Police, Raipur, District Raipur (C.G.)
3. Deputy Superintendent of Police, AJAK Police Station, Purani Basti Raipur (C.G.)
4. Principal, Government Ayurved College, Raipur (C.G.)
5. Kailash Singh Markam, Skin Medical Department, Government Naveen Balak Chhatrawas, Aurvedik College Campus, Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Y.C. Sharma, Advocate.

For Respondents No.2 to 4 / State: -

Mr. Ashish Surana, Panel Lawyer.

For Respondent No.5: Dr. Shiv Kumar Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

22/08/2017

1. Learned counsel for the petitioner would submit that Chhattisgarh State Scheduled Tribes Commission has sought explanation from the petitioner by memo dated 23-3-2017 and on the same date vide Annexure P-2 also made recommendation for proceeding against the petitioner which is unsustainable and bad in law, as the petitioner did not have any opportunity to submit explanation and without waiting for the petitioner's explanation, the said Commission has recommended for registration of criminal case against the petitioner under the

provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Indian Penal Code, whereas, the State / respondents No.2 to 4 has filed return stating that no such recommendation has been made in notice Annexure P-2.

2. I have heard learned counsel for the parties.
3. It is correct to say that notice was issued to the petitioner by the Commission on 23-3-2017 and on the same date, recommendation has been made to the Superintendent of Police, Raipur for proceeding against the petitioner under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Indian Penal Code, though the word 'recommendation' has been directed to be deleted by subsequent communication to the State Government.
4. Be that as it may, since notice has been issued to the petitioner seeking explanation, the Commission ought to have waited and considered the reply of the petitioner before proceeding further and recommending any action against the petitioner, to the police. Justice should not only be done, but it should clearly appear that justice is being done. When notice has been issued to the petitioner seeking explanation and on the same breath when recommendation to the police has been made for taking action against the petitioner, it creates doubt in the mind of person about the fairness of the Commission and it can be said competently that the Commission has formed its opinion to take action against the petitioner. Therefore, the impugned order Annexure P-2 is hereby quashed. The respondent Commission is directed to hear the petitioner and after hearing him

and considering the grounds raised by him in the reply, if any, filed by the petitioner, the Commission shall proceed in accordance with law.

5. With this observation, the writ petition stands finally disposed of. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma