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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5162 of 2016**

- Smt. Rinku Dutta W/o Shri Deepak Dutta, Aged About 43 Years Working As M.P.W. Female At Sub Health Centre Jairamnagar Within Chc Masturi Block Distirct Bilaspur Chhattisgarh R/o Keshav Murrabhattha Road Hemu Nagar, Bilaspur Distirct Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Public Health And Family Welfare Mantralaya, Mahanadi Bhawan Naya Raipur Chhattisgarh
2. The Chief Medical & Health Officer, Bilaspur, District Bilaspur Chhattisgarh
3. Smt. Gayatri Bandhi, Enquiry Officer O/o The Chief Meidcal And Health Officer Bilaspur Ditric Bilaspur Chhattisgarh
4. The Block Medical Officer, Block Takhatpur, District Bilaspur Chhattisgarh
5. The Block Medical Officer, Block Masturi, Distirct Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Shri RK Kesharwani, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****03/05/2017**

1. Petitioner would assail the charge-sheet as well as the enquiry proceedings initiated against her by issuance of charge-sheet Annexure P-1 on 13.08.2014.
2. Without going into the nature or merits of the charges, I shall confine to the arguments raised at the bar. Petitioner's learned counsel would argue that as per the program for examination of witnesses, three witnesses were to be

examined on 17.06.2015, another 3 on 22.06.2015 and the remaining 4 on 24.06.2015. When the petitioner appeared before the enquiry officer on 17.06.2015 along with her defense assistant, neither the enquiry officer nor the witnesses were present. Consequently, the petitioner was not informed about the next date of examination of the said three witnesses scheduled for 17.06.2015, however, without informing the petitioner, these 3 witnesses were examined in petitioner's absence on 18.06.2015 which is in violation of principles of natural justice. It is also argued that two more witnesses were examined on 22.06.2015 but on this date, the enquiry officer assumed role of presenting officer by himself putting question to the witnesses, which is not permissible in law. When two more witnesses were examined on 24.06.2015, the petitioner raised written objection that unless he is allowed to cross-examine the earlier examined witnesses, the enquiry should not proceed, however, ignoring the objection, two witnesses were examined on 24.06.2015.

3. On previous date of hearing, learned State counsel was directed to obtain copies of the order-sheets recorded by the enquiry officer on 17.06.2015 and further dates of hearing. A perusal of the proceedings would indicate that the petitioner had no notice of examination to witnesses on 18.06.2015, therefore, the said examination is clearly vitiated in law being in violation of principles of natural justice.
4. Without commenting as to the conduct of the enquiry officer on further dates of examination of witnesses on 22.06.2015 and 24.06.2015 and at the same time taking a cumulative view of the entire issue and the manner in which the enquiry has proceeded till date, this Court is of the considered view that all the witnesses examined by the enquiry officer are required to be produced for their cross-examination by the petitioner. .

5. Accordingly, the writ petition is allowed to the extent that the enquiry officer shall intimate the petitioner about the schedule for further examination of the witnesses already examined so that the petitioner is able to cross-examine them. Since the Presenting Officer has examined 7 witnesses, the enquiry officer shall fix examination of three witnesses on first date, two witnesses each on second and third date. The entire enquiry shall be completed within a period of three months from today. The enquiry officer shall proceed to conduct the enquiry in accordance with the provisions contained in Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966, without showing any prejudice or bias against the petitioner.

Sd/-

Judge

Prashant Kumar Mishra

Ashu