

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1645 of 2017**

- Sunil Kumar Jangde S/o Manmohan Jangde, Aged About 45 Years R/o Police Colony, Torwa, Thana Torwa, District Bilaspur (Chhattisgarh).

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Home Department D. K. S. Bhawan, Raipur (Chhattisgarh).
2. The Inspector General Of Police, Police Headquarter, Raipur (Chhattisgarh).
3. The Superintending Of Police, Bilaspur (Chhattisgarh).
4. The Additional Superintending Of Police (Urban), Bilaspur (Chhattisgarh).

---- Respondent

For Petitioner	:	Shri Bharat Rajput, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****07/04/2017**

1. Petitioner has called in question the desirability of continuing the departmental enquiry during pendency of the criminal case against him.
2. In crime No.207/14 the petitioner has been charged for committing offence under Section 294, 323, 506, 327 read with Section 34 IPC, whereas in crime No.208/14 he has been charged for committing offence under Section 294, 186, 353 read with Section 34 IPC. In the departmental enquiry proceedings he has been charged for showing gross indiscipline and indecent behaviour on 29.06.2014 when he was found to be in a state of intoxication in a public place and has thus violated clause 74 (4) of the

Chhattisgarh Police Regulations and Rule 23 (c) of the Chhattisgarh Civil Services (Conduct) Rules, 1965. He has also been charged for abusing and threatening constable No.676 Sahettar Prasad and other staff of police station Torwa on 29.06.2014 and has thus failed to show respect and gentlemanliness in violation of Clause 64 (11) of the Police Regulations.

3. In a police case, the prosecution is required to prove its case beyond all reasonable doubts whereas in a departmental enquiry, the enquiry officer is required to act on the principle of preponderance of probabilities. Thus, the nature of proof in both the proceedings are different.
4. The Supreme Court in **Stanzen Toyotetsu India Private Limited Vs. Girish V. And others**¹ after referring to its earlier judgments rendered in **A.P. SRTC Vs. Mohd. Yousuf Miya**², **Karnataka SRTC Vs. M.G. Vittal Rao**³ and **Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd.**⁴, held that it is fairly well settled that there is no legal bar to the conduct of the disciplinary proceedings and a criminal trial simultaneously. The Supreme Court, thereafter, held thus at para 16:-

“16. Suffice it to say that while there is no legal bar to the holding of the disciplinary proceedings and the criminal trial simultaneously, stay of disciplinary proceedings may be an advisable course in cases where the criminal charge against the employee is grave and continuance of the disciplinary proceedings is likely to prejudice their defense before the criminal Court. Gravity of the charge is, however, not by itself enough to determine the question unless the charge involves complicated question of law and fact. The Court examining the question must also keep in mind that criminal trials get prolonged indefinitely especially where the number of accused arraigned for trial is large as is the case at hand and so are the number of witnesses cited by the prosecution. The Court,

1 (2014) 3 SCC 636

2 (1997) 2 SCC 699

3 (2012) 1 SCC 442

4 (1999) 3 SCC 679

therefore, has to draw a balance between the need for a fair trial to the accused on the one hand and the competing demand for an expeditious conclusion of the on-going disciplinary proceedings on the other. An early conclusion of the disciplinary proceedings has itself been seen by this Court to be in the interest of the employees.”

5. In the case at hand, the charges against the petitioner in the criminal case do not involve complicated questions of law and fact, therefore, this requirement that stay of the departmental enquiry proceedings does not appear to be satisfied in an adequate measure to call for an unconditional and complete stay of the disciplinary proceedings pending conclusion of the criminal trial.
6. Accordingly, the writ petition is dismissed.

Sd/-

Judge
Prashant Kumar Mishra

ashu