

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

211

CWP-14938-2013 (O&M)
Date of decision:17.04.2017

Rohtash

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.Pardeep Singh, Advocate for the petitioner.

Mr. Hitesh Pandit, AAG, Haryana.

Mr. Jagbir Singh, Advocate for respondents no.3 and 4.

None for respondent No.5.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of the show cause notice dated 17.05.2013 by which the petitioner has been asked to submit his explanation (Annexure P2) dated 17.05.2013. The petitioner was subjected to disciplinary proceedings. The Inquiring Officer has completed his proceedings. Thereafter, the disciplinary authority issued a show cause notice seeking the petitioner's explanation. The same is under challenge. Learned counsel for the petitioner submitted that the inquiring officer has failed to appreciate various facts and contentions raised by the petitioner. Consequently, the report of the inquiring officer and seeking explanation by the disciplinary authority is

liable to be set aside. In this regard, petitioner relied on a decision passed in Civil Appeal Nos.2147-2148 of 2004 disposed of on 11.11.2010 titled as ***Maharashtra Land Development Corporation and others versus State of Maharashtra and another*** to contend that the inquiring officer is required to examine each of the contention which were placed before the inquiring officer. Learned counsel for the petitioner submitted that the petitioner has not been provided ample opportunity before the inquiry is concluded. Thus, the show cause notice dated 17.05.2013 is liable to be set aside.

2. Per contra, learned counsel for the respondents resisted the claim of the petitioner stating that the petitioner approached this court prematurely without submitting his explanation to the show cause notice dated 17.05.2013. On this preliminary issue, the petition is liable to be dismissed.

3. Heard learned counsel for the parties.

4. Short question for consideration in the present writ petition is whether this court under Article 226 of the Constitution can interfere with the show cause notice dated 17.05.2013 in a disciplinary proceedings or not? The Supreme Court time and again held that court can interfere in respect of show cause notice only on the ground of competency, mala fide or violation of any statutory provision. Learned counsel for the petitioner has not pointed out the above contentions in respect to challenge Annexure P2 dated 17.05.2013 to the extent that Registrar, Deenbandhu Chhotu Ram University of Science and Technology, Murthal, Sonapat is not the competent authority and no mala fide has been urged against the Registrar

and he is also not arrayed as party by name. Therefore, challenge to show cause notice dated 17.05.2013 is premature. The same cannot be entertained.

5. Counsel for the petitioner cited a decision in ***Maharashtra Land Development Corporation's case*** (Supra) is not applicable to the present case for the reasons that facts of the present case are distinguishable to that of the cited decision. Moreover in the present case only a show cause notice is under challenge which is premature therefore petition is dismissed reserving liberty to the petitioner to file his explanation before the disciplinary authority against the show cause notice dated 17.05.2013 within a period of 4 weeks' from today. The concerned disciplinary authority is directed to take further action after receipt of the petitioner's explanation within 8 weeks from the date of receipt of petitioner's reply/explanation.

6. With the above observation petition stands dismissed on the ground that petition is premature.

17.04.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No