

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2536 of 2018

Dilip Kumar Lahari S/o Shri Bhukhan Lal Lahari, aged about 50 years,
Head Warder, Central Jail Durg, R/o Qtr.No.18H, Jail Colony, Durg
(C.G.).

---Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Department of Home, New Mantralaya, Mahanadi Bhavan, Naya Raipur, District Raipur (C.G.).
2. Superintendent of Jail, Central Jail, Durg (C.G.).

---Respondents

For petitioner	:	Shri Varun Sharma, Advocate.
For State	:	Shri Sangharsh Pandey, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/03/2018

1. The challenge in the present Writ Petition is to the validity of chargesheet dated 16/09/2016 and also to the appointment of an enquiry officer on 06/02/2018 (Annexure-P/1 & P/2 respectively).
2. The petitioner has been chargesheeted for alleged mis-conduct of custodial death.
3. The chargesheet under challenge was served in September-2016. The present Writ Petition has been filed on 16/03/2018. Meanwhile the respondents have also now appointed an enquiry officer to conduct the enquiry in respect of charges which have been levelled against the petitioner.

4. Given the aforesaid circumstances of the case, this Court does not find this to be a proper case for interfering with the disciplinary proceedings at this stage when the enquiry officer also has been appointed and chargesheet was issued around two years back.
5. Even otherwise, it is settled position of law that a Writ Court cannot act as a disciplinary authority or for that matter as an appellate authority to go into the details of charges which have been levelled in the chargesheet.
6. That in case of a prima-facie case of an employee has been chargesheeted, it is for the department to hold an enquiry and to ensure that the factual matrix are established in the departmental enquiry so proposed.
7. It is only an apprehension that he would not be given fair opportunity to defend during the enquiry and there is all possibility of he being victimized.
8. However, this is only being an apprehension which at this stage cannot be presumed that he would be victimized or he would not be granted fair opportunity to defend himself.
9. Moreover, it is always expected that the respondents particularly the enquiry officer has to act in accordance with the rules and guidelines framed pertaining to conducting of the departmental enquiry is concerned. Moreover no enquiry can be conducted without following the basic principles of natural justice.
10. Thus, this Court does not find any strong case made out by the counsel for the petitioner and the same deserve to be and is accordingly rejected.

11. Considering the fact that chargesheet were issued in 2016, it is expected that the department shall conclude the enquiry at the earliest.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit