

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 3088 OF 2018**

- Ishwar S/o Bhaigo, Aged About 49 Years, R/o Haldibadi, Hiragiddafai Chirmiri, Police Station- Chirmiri, District- Koriya (C.G.)

... Petitioner**versus**

1. South Eastern Coalfields Limited, through Chairman-cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh-495006.
2. General Manager, South Eastern Coalfields Limited, Chirmiri Area, Post Office- West- Chirmiri, District- Koriya, Chhattisgarh.
3. Sub Area Manager, N.C.P.H., Sub Area, South Eastern Coalfields Limited, Chirmiri Area, Post Office- Haldibadi, District- Koriya (C.G.)

... Respondents

For Petitioner	:	Mr. Chandresh Shrivastava, Advocate.
For Respondents	:	Mr. Vikram Sharma, Advocate, under instructions of Mr. Shailendra Shukla, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/04/2018**

1. Challenge in the present writ petition is to Annexure P-1, dated 25.2.2018 and Annexure P-2, dated 6.1.2018. Annexure P-2 being the charge-sheet issued to the Petitioner and Annexure P-1 being the order of appointment of an Enquiry Officer and Presenting Officer.
2. Learned Counsel for the Petitioner submits that the entire enquiry which is being conducted is in predetermined manner and is with a view to dismiss the Petitioner from service. According to him, the Respondents had received an anonymous complaint and on the basis of an anonymous complaint a preliminary enquiry has been conducted at the back of the Petitioner wherein he was not taken into confidence in any manner and that the department is relying upon the documents sent by the police authorities and on the basis of the same, service of the Petitioner is likely to be terminated. He next submits that these documents which have been furnished by the police authorities are in fact in favour of the Petitioner, but the Respondents would not look into it in its proper perspective.

3. Learned Counsel for the Respondents however opposing the petition submits that it is only an issuance of a charge-sheet and appointment order of Enquiry Officer which is under challenge in the present writ petition. According to him, this Court in exercise of its power under Article 226 of the Constitution of India would not substitute itself as a disciplinary authority nor would this Court act as an Enquiry Officer to inquire at the veracity of the charges levelled against the Petitioner.

4. Further contention of the management is that the allegations against the Petitioner are quite serious. The charges against the Petitioner is of obtaining employment by playing fraud. That being the employer the Respondents have all the authority under service rules to conduct an inquiry in this regard and it is with this that the charge-sheet has been issued and the Enquiry Officer has been appointed. Therefore there is no scope of any interference by this Court and the writ petition deserves to be rejected.

5. Having heard the contentions put forth on either side and on perusal of record, this Court is of the opinion that the present writ petition at this juncture is too premature to be entertained. Prima facie, the charges levelled against the Petitioner seem to be too serious. The Petitioner has been called upon to give a reply to the charge-sheet and also to participate in the departmental enquiry. It is expected of the Respondents particularly the Enquiry Officer that the enquiry which would be conducted against the Petitioner would be conducted in a fair and reasonable manner. A fair opportunity of defence would be provided to the Petitioner and that whatever evidence which the Petitioner as a delinquent employee would bring before the Enquiry Officer would be considered in its proper perspective and only thereafter would the Enquiry Officer submit his report

to the disciplinary authority who again is expected to act reasonably and after applying due procedure as is required under the standing orders governing the service conditions of the Petitioner take a final decision by a speaking order.

6. With the aforesaid observations, the present writ petition in its present form stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/