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HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 4209 OF 2015**

1. Lallan Singh, S/o Late Shri Shriram Singh, aged about 58 years, occupation- Sub Inspector, posted as Security of High Court of Chhattisgarh, P.S. Chakarbhata, District Bilaspur (C.G.)
2. C.P. Kanwar, S/o Shri B.L. Kanwar, aged about 34 years, occupation- Sub Inspector, posted at Police Station- Chakarbhata, P.S. Chakarbhata, District Bilaspur (C.G.)
3. B.S. Nishad, S/o Late Shri D.S. Nishad, aged about 59 years, occupation- Inspector, posted at Police Line, P.S. Civil Line, District Bilaspur (C.G.)

... Petitioners**versus**

1. State of Chhattisgarh, through Secretary, Home and Police Affairs and Finance, Mahanadi Bhawan, New Mantralay, District Raipur (C.G.)
2. Director General of Police, Police Head Quarter, District Raipur (C.G.)
3. Inspector General of Police, Bilaspur Range, District Bilaspur (C.G.)
4. Superintendent of Police, Bilaspur, District Bilaspur (C.G.)

... Respondents**WRIT PETITION (S) NO. 6798 OF 2017**

Shyam Sundar Patel, S/o Late Abhay Charan Patel, aged about 58 years, presented posted at in-charge Traffic, Traffic P.S. Korba, District Korba (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh, through Secretary, Home and Police Affairs and Finance, Mahanadi Bhawan, New Mantralay, District Raipur (C.G.)
2. Director General of Police, Police Head Quarter, District Raipur (C.G.)
3. Inspector General of Police, Durg Range, District Durg (C.G.)
4. Superintendent of Police, Rajnandgaon, District Rajnandgaon (C.G.)

... Respondents

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- Mr. Prakash Tiwari, Advocate, for the Petitioners in WPS No. 4209/2015.
 - Mr. Vineet Kumar Pandey, Advocate, for the Petitioner in WPS No.6798/2017.
 - Mr. Shashank Thakur, Government Advocate, for the State.
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****19/06/2018**

1. Since the issue raised in the present two writ petitions is common and the line of argument advanced by the learned Counsel for the two Petitioners and the relief sought for also being identical and similar, this Court proceeds to decide both these writ petitions by this common judgment.

2. The question of law to be decided in these cases is, as to whether the Inspector General of Police (hereinafter referred to as "IGP") is competent enough to issue charge-sheet for initiating disciplinary proceeding against the officers of the police department subordinate to the Superintendent of Police (hereinafter referred to as "SP").

3. Facts of the case in brief are that the Petitioners in the two writ petitions are working on the post of Sub Inspector and Inspector respectively. So far as WPS No. 4209/2015 is concerned, the Petitioners therein on account of certain alleged misconduct were issued with a charge-sheet on 16.9.2015, Annexure P-1, by the then IGP and the same IGP again vide Annexure P-2 dated 28.10.2015 appointed the Additional Superintendent of Police (City), Bilaspur as the Inquiry Officer and at the same time appointed the Inspector/SHOs, Kota as the Presenting Officer. Likewise, as regards WPS No. 6798/2017, the Petitioner therein has been issued with a charge-sheet for an alleged misconduct by the IGP vide Annexure P-1 dated 23.2.2017 and an Inquiry Officer and Presenting Officer again have been appointed vide Annexure P-2 dated 16.8.2017.

4. Learned Counsel for the Petitioners at the outset submitted that service conditions of the Petitioners are governed by the Chhattisgarh Police Regulations. Regulation 228 of the said Regulation very emphatically holds that the officers subordinate to the rank of SP would be charge-sheeted only by the SP and not by any other officer. He further submits that in the instant case since the charge-sheet has been issued by the IGP the same is therefore not sustainable and is in contravention to the Police Regulations and thus prayed for the same to be set aside/quashed.

5. Learned Counsel for the Petitioners also relied upon a Division Bench decision of the Madhya Pradesh High Court in the case of **Arun Prakash Yadav v. State of Madhya Pradesh & Ors., 2013 LawSuit (MP) 2242**, wherein the Division Bench has categorically held that for the purpose of deciding competence of an authority to institute disciplinary proceedings/issuance of charge-sheet against an Inspector of Police, the Police Regulations alone would apply to the exclusion of M.P. Civil Service (Classification, Control and Appeal) Rules, 1966. It was held by the said Division Bench that the SP alone is the competent authority to initiate disciplinary proceeding/issuance of charge-sheet for major penalties against an

Inspector of Police as per the Regulation 228 of the Police Regulations. Learned Counsel for the Petitioner has further relied upon a subsequent decision of the Madhya Pradesh High Court in the case of **Yogendra Singh Yadav v. State of M.P. & Ors., 2015 (2) MPHT 406**, which again reiterated the decision of the Division Bench in **Arun Prakash Yadav** (supra).

6. Learned Counsel for the State however opposing the petitions referred to the Police Regulation 223 wherein it has been envisaged that the IGP has been empowered to impose punishment upon the officer subordinate to him and that in the process if the IGP himself has issued a charge-sheet the same cannot be said to be bad in law or contrary to the Regulations and thus he prayed for the dismissal of the writ petitions.

7. Having heard the contentions put forth on either side and on perusal of record, admittedly the Petitioners before this Court in the two writ petitions are working as Inspectors/Sub Inspectors in police department. Both the rank of officers are subordinate to the SP in the District. It is also not in dispute that the service conditions of the Petitioners are governed by the Chhattisgarh Police Regulations. There is also no quarrel insofar as the Regulation 228 of the Chhattisgarh Police Regulation being *pari materia* to the provisions of the Madhya Pradesh Police Regulations, which for ready reference is reproduced herein under:-

“228. D.E. -- When and how to be held. -- In every case of removal, compulsory retirement from service, reduction in rank, grade or pay or withholding of increment for a period in excess of one year a formal proceedings must be recorded by the Superintendent in the prescribed form, - setting forth].”

8. It would now be relevant to refer to a Division Bench judgment of the Madhya Pradesh High Court in the case of **Arun Prakash Yadav** (supra), relevant paragraphs of which are reproduced herein for ready reference:

“19. A bare reading of Regulation 228 indicates that Superintendent alone has been mentioned as the authority to frame and issue a charge-sheet in respect of major penalty or penalties which have the effect of major penalties. The term “Superintendent” means the Superintendent of Police, which is evident from Regulation 32 which describes the SP as the head of the Police Force of his District. The Police Regulations do not prescribe the competence of any authority to issue a charge-sheet in any other provisions except Regulation 228, which solely empowers the SP. This power of issuance of charge-sheet is bestowed upon the SP in regard to all persons holding the ranks

subordinate to that of the SP. By necessary implication, the provisions of Regulation 228 exclude all authorities, superior or inferior to the SP to issue a charge-sheet to any Police personnel holding the rank subordinate to that of SP. It can, thus, be safely held that for an Inspector of Police, which in rank is subordinate to SP, the sole competent authority to issue charge-sheet is the SP under the Police Regulations, which exclusively govern the field as held supra.

20. From the above discussion, it is crystal clear that no other authority except SP is empowered under the Police Regulations to institute disciplinary proceedings/issue charge-sheet to an Inspector of Police.

21. It is now to be seen that in the background of the abovesaid findings of the SP alone being competent to issue charge-sheet to an Inspector, can the DIG/IG or for that matter any Officer superior in rank to the SP, institute disciplinary proceedings/issue charge-sheet to an Inspector of Police.

35. This Bench, thus, answers the refrained question in the following manner:-

(i) An Inspector of Police while assailing the competence of authority to issue major penalty/charge-sheet against him cannot avail induction into the gazetted cadre constituted under the Gazetted Rules of 2000 merely because of being declared as Gazatted and being upgraded in the scale of pay of Rs.6500-10,500/-, unless the Gazetted Rules of 2000 are amended suitably.

(ii) For the purpose of deciding the competence of an authority to institute disciplinary proceedings/issuance of charge-sheet against an Inspector of Police, the M.P. Police Regulations alone would apply to the exclusion of M.P. Civil Service (Classification, Control and Appeal) Rules, 1966.

(iii) As per Regulation 228 of Police Regulations, the Superintendent of Police alone is the competent authority to initiate disciplinary proceedings/issue charge-sheet for major penalties, against an Inspector of Police; and...”

9. The said view of the Division Bench of the Madhya Pradesh High Court further stood reiterated by another Division Bench of the same High Court in the case of **Manoj Verma v. State of M.P.**, 2014 (3) JLJ 150, wherein in paragraph 13 while concluding the judgment the Division Bench has held as under:

“13. Having thus perused the order of the writ Court it is amply clear that the grounds which are embarked upon before this court were taken into consideration by the writ Court at earlier point of time and nothing was left to be considered. At the time of consideration of the case of the appellant, the provisions contemplated under the Regulations 213 and 228 of Madhya Pradesh Police Regulations have broadly been considered by the learned writ Court and it was only thereafter concluded that case of the appellant is governed under the M.P. Police Regulations under which the Superintendent of Police alone is the competent authority to initiate disciplinary proceedings/issue charge-sheet for major penalties, against an Inspector of Police. Thus, after taking into consideration the entire matter along with relevant rules, this Court is also with the agreement that the case of appellant is fully covered by the decision rendered in the case of Arun Prakash Yadav (supra) and is of the considered view that the findings given by the learned writ Court are perfectly legal and not suffered from any infirmity or perversity. In other words, the order passed by the writ court is well merited calling for no interference by this court.”

10. The same view has further been relied upon by the Madhya Pradesh High Court in the case of **Yogendra Singh Yadav** (supra) where in paragraph 9 and 10 it was observed as follows:

“9. Counsel for respondents has referred to the subsequent notification dated 12-7-2013 whereby Regulation 223 has been substituted and following Regulation 223 has been incorporated:-

“223. Powers of the Zonal Inspector General of Police or any Police Officer equivalent to the rank of Inspector General of Police.-

The Zonal Inspector General of Police or any police officer equivalent to the rank of Inspector General of Police to exercise the following powers:-

- (a) Power to suspend any officers up to the rank of Inspector pending enquiry into their conduct.
- (b) Power to inflict any of the punishments specified in Regulations 216 and 217 on Head Constables and Constables.
- (c) Power to inflict on all ranks from Constables to Inspector any of the penalties specified in Regulations 214 and 215.”

Under the above Regulations, the Zonal Inspector General of Police or any police authority equivalent to the rank of Inspector General of Police has been empowered to

inflict any of the penalties in Regulations 214 and 215 but since there is no amendment in Regulation 228, therefore, the position about issuance of the charge sheet in terms of the judgment of the Division Bench in the matter of Arun Prakash Yadav (Supra), will not alter even after the said amendment.

10. Thus, I am of the opinion that the impugned charge sheet dated 20-12-13 issued by the Inspector General of Police cannot be sustained in view of the Division Bench judgment in the matter of Arun Prakash Yadav (supra), and is hereby set aside with liberty to the Competent Authority to issue fresh charge sheet."

11. In view of the three authoritative decisions on the subject which is *pari materia* in the State of Chhattisgarh, this Court has no hesitation in holding that the charge-sheet which has been issued by the IGP is without competence and is beyond his authority and contrary to the Police Regulations framed by the State of Chhattisgarh.

12. For the aforesaid reasons, the charge-sheet as it stands would not be sustainable in the eye of law and the same deserves to be and is accordingly set aside, reserving the right of the Respondents, if they feel so, to initiate fresh proceedings in accordance with the Police Regulations.

13. Needless to mention that as a consequence of setting aside of the charge-sheet, the Petitioners would be entitled for all the consequential benefits.

14. Both the writ petition stand allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge