

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4613 of 2018

Smt. Meenu Rathore W/o Shri Neeraj Singh Rathore, aged about 35,
R/o Street No.4A, House No.31, Vidhyut Nagar, Durg.

---Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Revenue, Mantralaya, Mahanadi Bhawan, Naya Raipur.
2. Chhattisgarh Lok Ayog, Raipur through its Secretary, Chhattisgarh Lok Ayog, Raipur.
3. The Sub Divisional Officer (Revenue), Durg.

---Respondents

For petitioner	:	Shri B.P.Sharma, Advocate.
For State	:	Shri Syed Majid Ali, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

31/07/2018

1. The challenge in the present Writ Petition is to the charge-sheet Annexure P/2 dated 02/03/2018.
2. The main contention of the counsel for the petitioner challenging the charge-sheet is that, the charge-sheet has been issued at the behest of the superior authorities and that it has been done with a predetermined approach of holding the petitioner guilty of the charges which have been levelled against him. He further submits that, it is a case where on the plain reading of the charges which have been levelled against the petitioner it would reveal that, the charges are nothing but the precise nature of duty which is conferred upon the post which the petitioner was holding. He further

submits that, even otherwise, the charge also is not sustainable for the reason that, the petitioner had only prepared documents which are otherwise required to be prepared by the Patwari, he has not passed any final order. The petitioner infact had submitted these documents before the higher authorities who in turn have proceeded further and as such the petitioner only discharged his duties which he is otherwise supposed to do in accordance with the Act and rules and he had done nothing with which he could have been subjected to disciplinary proceedings.

3. The law so far as intervention of the High Court at the stage of initiation of charge-sheet is by now well settled.

4. It is repeatedly held by a catena of decisions that the High Court in exercise of its powers under Article 226 of the Constitution of India would not substitute itself as the disciplinary authority or for that matter the enquiry officer nor would it conduct a roving enquiry into the charges levelled against the petitioner.

5. If at all if the contention of the petitioner is that whatever he has done is purely in accordance with the Acts and Rules and the powers which are conferred upon the petitioner, the petitioner should not shy away from proving his conduct by standing before the enquiry officer and prove her innocence.

6. The Supreme Court in the case of **State of Uttar Pradesh v. Brahm Datt Sharma & Anr. [1987 2 SCC 179]** dealing with the scope of judicial interference in disciplinary matters was of the opinion that, “the

purpose of issuing show cause notice is to afford an opportunity of hearing to the Government servant and once cause is shown and is open to the Government to consider the matter in the light of the facts and submissions placed by the Government servant, only thereafter a final decision in the matter could be taken. Interference by the Court before that stage would be premature and the Hon'ble Supreme Court went on holding that, the High Court in our opinion ought not have interfere with the show cause notice.

7. Again, the Hon'ble Supreme Court in the case of Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha [2012 11 SCC 565] in paragraph 8, 10 & 12 has held as under:-

“8. The law does not permit quashing of charge-sheet in a routine manner. In case the delinquent employee has any grievance in respect of the charge-sheet he must raise the issue by filing a representation and wait for the decision of the disciplinary authority thereon.

10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause

notice in disciplinary proceedings should not ordinarily be quashed by the court.

12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues.”

8. From the aforesaid legal position as it stands it is clear that, the Supreme Court has been of the view that, the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India would interfere with the disciplinary proceedings only in the event of there been a total lack of competency in the holding of enquiry proceedings by the enquiry officer or the enquiry proceedings are barred for any reason or where the charges have been already enquired upon and has been concluded.

9. In the instant case, the contention of the petitioner is neither questioning the competency or the power of the authorities in issuing the same and the petitioner has filed the petition assailing chargesheet more on the ground that, the same does not fall within the ambit of misconduct and therefore it should be quashed.

10. This aspect can also be looked into by the disciplinary authority on the petitioner submitting a detailed reply to the chargesheet.

11. This Court therefore is reluctant to entertain the petition at this juncture.

12. Reserving the right of the petitioner to file a detailed reply to the chargesheet and in turn it is expected that, the disciplinary authority would consider before taking a further decision whether to hold a departmental enquiry or to close the matter.

13. Accordingly, the present Writ Petition being devoid of merits deserve to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit