

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 5685 OF 2018**

Manoj Kumar Jaiswal S/o Balkrishna Jaiswal, Aged About 50 Years,
R/o Village Jhingatpur, Post Chainpur, District Korba, Chhattisgarh

---- Petitioner**Versus**

1. South Eastern Coalfields Limited Through Its Chairman Cum Managing Director, SECL Seepat Road Bilaspur, District Bilaspur Chhattisgarh
2. General Manager South Eastern Coalfield Limited, Dipka Project, Korba, District Korba Chhattisgarh
3. Sub Regional Manager, Surakachhar, Balgi Sub Area, District Korba Chhattisgarh
4. Senior Manager (Mining) South Eastern Coalfields Limited, Dipka Project, Korba, District Korba Chhattisgarh

... Respondents

For Petitioner	:	Mr. Basant Kaiwartya, Advocate.
For Respondents	:	Mr. V. R. Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****31/08/2018**

1. Challenge in the present writ petition is to the charge-sheet dated 24.07.2018.
2. Contention of the learned Counsel for the Petitioner is that the department is proceeding with the departmental enquiry in a haste and it is in contravention to the basic principles of natural justice. According to the Petitioner, he is not being provided with all the documents, the statements, which the Respondents are relying upon during the course of inquiry and there is a possibility that the Petitioner would be punished without sufficient opportunity of defence.

3. Learned Counsel for the Petitioner further submits that he has a right to be proceeded in the departmental enquiry where the Enquiry Officer proceeds in a fair and reasonable manner granting full opportunity to the Petitioner. He submits that the Respondents are duty bound to comply with the guidelines or parameters in the course of conducting of departmental enquiry, as as has been laid down by the Hon'ble Supreme Court in the case of **The State of Punjab v. Bhagat Ram**, 1975 (1) SCC 155.

4. Per contra, learned Counsel for the Respondents however submits that they have in fact provided the Petitioner with all the relevant documents which the department is relying upon to establish their case before the Enquiry Officer. Counsel for the Respondents also referred to the documents enclosed with the charge-sheet and the list of documents enclosed with the present writ petition which according to him have been provided to the Petitioner.

5. Given the aforesaid facts and circumstances of the case, since charge levelled against the Petitioner is of obtaining employment by playing fraud with the management, the management has every right to proceed departmentally against the Petitioner. This Court in exercise of its powers under Article 226 of the Constitution of India would not come in the way of the department in the course of conducting an enquiry. However, it is expected that the Enquiry Officer shall act fairly and reasonably as is expected from an Enquiry Officer and which has also been stated by the Hon'ble Supreme Court in the case of **Bhagat Ram** (supra) where in paragraph 7 it was held as under:

“The meaning of a reasonable opportunity of showing cause against the action proposed to be taken is that the Government servant is afforded a reasonable opportunity to defend himself against charges on which inquiry is held. The Government servant should be given an opportunity to deny his guilt and establish his innocence. He can

do so when he is told what the charges against him are. He can do so by cross examining the witnesses produced against him. The object of supplying statements is that the Government servant will be able to refer to the previous statements of the witnesses proposed to be examined against the Government servant. Unless the statements are given to the Government servant he will not be able to have an effective and useful cross-examination.”

6. It is expected that the aforesaid observations of the Hon'ble Supreme Court shall be borne in mind by the Enquiry Officer as also by the Presenting Officer in the course of enquiry.

7. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge