

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 6104 OF 2018**

Smt. Renu Singh D/o R.P. Singh Aged About 43 Years Assistant Grade-II/reader, In The Court Of First Civil Judge, Class-II/Judicial Magistrate First Class, District- Court, Ambikapur, District- Surguja, Chhattisgarh.

...Petitioner(s)

Versus

1. District and Sessions Judge Ambikapur, District- Surguja, Chhattisgarh.
2. Enquiry Officer (First Additional District/sessions Judge District- Court Ambikapur, Chhattisgarh.
3. State of Chhattisgarh Through Principal Secretary, Law Mahanadi Bhawan, Mantralaya Naya Raipur, District- Raipur, Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri T.K. Jha, Advocate.
For Respondent-State	:	Shri SP Kale, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

18.09.2018

1. The challenge in this petition is to the charge sheet dated 05.06.2018 (Annexure P/1).
2. At the outset, this court is not inclined to entertain this writ petition considering the nature of allegations which have been made in the charge sheet.
3. So far as the scope of interference by the High Court in a case of charge sheet is concerned, the same is by now well settled that charge sheet or departmental proceedings cannot be challenged at the initial stage except on the limited ground of competency of the authority who has issued the same. The court would not substitute itself as a disciplinary authority to conduct threadbare enquiry into the allegations and also to ascertain whether the petitioner was guilty or not of the said offence.
4. The Supreme Court time and again held that the writ court should not entertain the petition where the challenge is to the charge sheet or show cause notice unless there is a cogent strong ground therein as also the incompetency of the authority issuing the same. The petitioner has all right

to file a detailed reply to the charge sheet and take all relevant defence which she intends to and also give justification in respect of the allegations. The authorities concerned would objectively consider the reply to the charge sheet and thereafter if the reply is found unsatisfactory only then the authorities are supposed to proceed further with the departmental enquiry.

5. 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.
6. Again, the Hon'ble Supreme Court in the case of Secretary, Ministry of Defence & Ors. v. Prabhask 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 chargesheet 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.”

7. The counsel for the petitioner submits that the petitioner has already given a reply to the charge sheet. The enquiry officer has also been appointed and therefore the petitioner further prays for making a fresh additional reply to the charge sheet.
8. Given the aforesaid facts, this court does not intent to interfere with the proceedings drawn at this juncture. The petitioner would be permitted to take all defence that she has and which she intends to raise by adducing cogent evidence before the enquiry officer to substantiate the same and proves her innocence
9. The writ petition accordingly stands dismissed.

Sd/-
(P. Sam Koshy
Judge