

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6377 OF 2018**

Smt. Sheela Dhritlahre W/o Shri Deendayal Dhritlahre Aged About 47 Years Supervisor, Komakhan, R/o Komakhan, Tahsil Kasdol, District Balodabazar Bhatapara Chhattisgarh.

...Petitioner(s)

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Women And Child Development, Mahanadi Bhawan, New Mantralaya, Naya Raipur Chhattisgarh.
2. Commissioner Women And Child Development, Directorate Indrawati Bhawan, Naya Raipur Chhattisgarh.
3. Collector Balodabazar Bhatapara Collectorate Chhattisgarh.
4. District Program Officer, Women And Child Development Department, District Baloda Bazar Bhatapara Chhattisgarh.
5. Vijay Prabhat Saral Project Officer, Integrated Child Development Scheme, Palari, District Baloda Bazar Bhatapara Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Varun Sharma, Advocate.
For Respondent-State	:	Shri RN Pusty, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.10.2018

1. The challenge in this petition is to the charge sheet dated 12.10.2017. The primary challenge to the charge sheet was that the same has been issued by an incompetent authority inasmuch as the charge sheet has been issued by an officer lower in rank than the appointing authority.
2. The counsel for the petitioner submits that the services of the petitioner was appointed by an order of the Commissioner, and therefore for all practical purposes, it would be the Commissioner who would be the competent authority and in the present case the charge sheet has been issued by the District Programme Officer, Women and Child Welfare Department and therefore the charge sheet is void ab initio at the outset itself. He further submits that there is no evidence or material with which it can be said that the charge sheet which has been issued by the lower officer has the approval or due permission of the higher authorities in the

department. The petitioner relied upon the judgment of Supreme Court in case of Union of India & ors. Vs. B.V. Gopinath, 2014 (1) SCC 351 to support his contention.

3. The contention of the petitioner is that the charge sheet has been drawn under Rule 14 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules and Sub-clause 3 of Rule 14 of the said Rules envisages that the disciplinary authority shall draw up or cause to be drawn up the charge sheet. The term “cause to be drawn up” means that it could be either the disciplinary authority himself or a person who has been delegated the authority by the disciplinary authority or there is a sufficient approval by the disciplinary authority so far as issuance of charge sheet is concerned.
4. The State counsel opposing the petition submits that the petitioner is an employee who is working in the block level cadre in the organizational set up of the Integrated Child Development Scheme (ICDS). According to the respondents, the petitioner discharges the duties of Supervisor who is an employee who works just above the Angang Badi Workers and the head of the block level field staff is the Child Development Project Officer at the block level and above the block level is the District Level and the head of the District level is the District Programme Officer who has issued the charge sheet in the present case.
5. The State counsel further submits that since the petitioner was an employee of Block Level cadre, for all practical purposes, he substantially works under the District Programme Officer. He refers to the guidelines of the ICDS which reflects that the devolution of power at all levels is yet to be worked out, currently state is exercising the similar powers as were used in old state and the financial and administrative powers are clearly distributed at all levels.

6. If that be so, it has to be presumed that since the administrative powers has been distributed at all levels so far as employee working in the block level, they would definitely fall under the administrative control of the District Programme Officer. Accordingly, if the District Programme Officer has issued with the charge sheet in the capacity of being administrative head of all the block level employees and the employees working at the district level, it cannot be said that the District Programme Officer does not have the power to issue charge sheet to the petitioner.
7. So far as judgment which has been relied upon by the petitioner is concerned, paragraph 52 of the said judgment itself refers to the decision of the Supreme Court in case of P.V. Srinivas Sastry Vs. CAG,1993(1)SCC 419 which clearly lays down that the departmental enquiry could be initiated by an officer lower in rank to the appointing authority. The said view of the Supreme Court in case of P.V. Srinias (Supra) has not been held to be bad rather has the note of approval by the Supreme Court in case of Union of India Vs. B.V. Gopinath (Supra) and the same therefore is distinguishable.
8. The writ petition accordingly being devoid of merit deserves to be and stands dismissed.

Sd/-
(P. Sam Koshy
Judge