

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 6342 OF 2018**

Suresh Kumar Dhruv, S/o Shri Anant Ram Dhruv, aged about 47 years, working as Constable, Police Station Reserve Police Line under O/o S.P. Rajnandgaon, District Rajnandgaon, District Rajnandgaon (CG), R/o New Police Line, 18 acre, Qtr. No. H/49, P.S. Kotwali, Rajnandgaon, District Rajnandgaon (CG) **... Petitioner**

versus

1. State of Chhattisgarh, through the Principal Secretary, Department of Home, New Raipur, District Raipur (CG)
2. The Superintendent of Police, District Rajnandgaon (CG)
3. Deputy Superintendent of Police (IUCAW), District Rajnandgaon (CG) **... Respondents**

For Petitioner	:	Mr. Sunil Pillai, Advocate.
For Respondent-State	:	Mr. R.K. Gupta, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board**27/09/2018**

1. Challenge in the present writ petition is to the order of Inquiry Officer dated 30.8.2018, Annexure P-5, whereby the request of the petitioner for appointment of a defence assistant namely Birendra Kumar Sinha has been refused by the Inquiry Officer.
2. The refusal was on the ground that the said Birendra Kumar Sinha, an ex-employee of the respondents, was involved in some criminal cases. The petitioner has questioned this order on the ground that the said Birendra Kumar Sinha in the past has been permitted to be a defence assistant in respect of the same petitioner in a different departmental enquiry, as is evident from Annexure P-4.
3. The petitioner further submits that there is no procedure or guidelines or rules prescribed stating that merely because a defence assistant in the past has been put to trial in a criminal case would be disqualified for being appointed as defence assistant.
4. State Counsel however opposing the petition submits that once when the Inquiry Officer finds that the defence assistant who has been

sought to be engaged has a bad track record inasmuch as he has been involved in more than a couple of cases, it would not be in the interest of justice to permit the said person to be engaged as a defence assistant in a departmental enquiry.

5. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that merely because a person who has been requested to be appointed as a defence assistant has been involved in a criminal case, without knowing the outcome of the said criminal case the refusal of his being appointed as a defence assistant does not appear to be a fair decision on the part of the Inquiry Officer. It also does not appear to be justified for the reason that in the past the same person has been permitted to be appointed as a defence assistant in a departmental enquiry and that there was no hindrance or objection which was either created by the said defence assistant or was objected by the department at that point of time.

6. Given the said facts and circumstances of the case, the decision of the Inquiry Officer does not appear to be justified at this juncture. Setting aside the same, the authorities concerned are directed to permit the petitioner to engage Shri Birendra Kumar Sinha as a defence assistant.

7. Needless to mention that the authorities concerned however would take necessary steps ensuring that the said defence assistant does not create a situation wherein smooth conducting of the departmental enquiry affects adversely.

8. With the aforesaid observation, the writ petition stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge