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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 6738 of 2018

Sharad Kumar Dubey S/o Shri Dayawant Dubey, Aged About 38 Years, R/o Block No. 9/231, New B Type, Kurasiya Colliery, Godripara, Chirmiri, District - Koriya, Chhattisgarh

---- Petitioner

Versus

1. South Eastern Coal Field Limited Through General Manager, Chirmiri Area, District - Koreaa, Chhattisgarh

2. Sub Area Manager, SECL, Kurusiya West Chirmiri, Chirmiri Area, District - Korea, Chhattisgarh

---- Respondents

For Petitioner : Shri Awadh Tripathi, Advocate
For Respondents : Shri Vaibhav Shukla, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

09.10.2018

The challenge in the present writ petition is the issuance of fresh charge sheet dated 12.06.2018 Annexure P-2 and the departmental enquiry contemplated.

2. Counsel for the petitioner submits that on an earlier occasion also the petitioner had been issued with a charge sheet dated 06.11.2017 which was withdrawn by the respondents on the interference of this court in WPS No. 3554/2018. According to the petitioner, subsequently the respondents have now issued the same charge sheet with no factual difference and the petitioner still faces the same difficulty in facing the departmental enquiry as the relevant documents and the list of witnesses and the materials which have been relied

upon by the authorities for issuance of charge sheet for holding the departmental enquiry have not been provided to the petitioner.

3. This Court on perusal of the record, particularly the impugned charge sheet dated 12.06.2018 finds that the petitioner has been issued with a charge sheet along with the articles, charges and also the documents as per the list and the same has also been made available to the petitioner.

4. Now the only issue is whether the petitioner would be entitled for the other materials which he has sought for from the department or not. It is made clear that the petitioner would be entitled for all those documents which the respondents or the enquiry officer or the Department would be producing against the petitioner in the course of enquiry. It is only after the petitioner is served with a copy of those documents, the respondents can proceed with the departmental enquiry. The intention is that the petitioner should have a fair opportunity of defence during the departmental enquiry and which also includes having an opportunity of cross examining these witnesses of the Management.

5. Further contention of the petitioner so far as the malafide is concerned, the same does not seem to be a strong ground as there is no material produced to prove the malafide except for the averment which the petitioner has made in the writ petition. It is further reiterated that the respondents should ensure that the principles laid down by the Supreme Court in the case of State of Punjab Vs. Bhagat Ram reported in 1975 (1) SCC 155 shall also be borne in mind by the Management in the course of conducting the enquiry.

6. With the aforesaid observation, the present writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge

Bhola