

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 7183 OF 2018**

Dr. Ram Narayan Khare, S/o Late Devi Dayal Khare, aged about 48 years, presently posted as Principal, Government University Engg. College, under the Sarguja University (a constituent college of Surguja University of Engg.), R/o Qtr. No. E-3, Government Polytechnic College, Ambikapur, District Sarguja (CG) **... Petitioner**

versus

1. State of Chhattisgarh, through its Secretary, Department of Higher Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, PO & PS Rakhi, District Raipur (CG)
2. The Sarguja University, Ambikapur, through its Registrar, Sarguja University, Ambikapur, District Sarguja (CG)
3. Dr. Rohini Prasad, The Vice-Chancellor, Sarguja University, Ambikapur, District Sarguja (CG) **... Respondents**

-
- Mr. Mateen Siddiqui, Advocate, for the Petitioner.
 - Mr. Dheeraj Wankhede, Govt. Advocate, for Respondents No.1.
 - Mr. Neeraj Choubey, Advocate, for Respondent No.2.
-

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30/10/2018

1. The dispute in the present writ petition is the order of suspension passed by respondent no.2, dated 18.10.2018.
2. The contention of the learned counsel for the petitioner is that the said order is a *mala fide* order and at the personal whims and fancy of respondent no.3, the Vice-Chancellor, of the concerned University. It is the contention of the petitioner that there are certain personal differences between the petitioner and the Vice-Chancellor inasmuch as the petitioner has filed a couple of writ petitions directly making the Vice-Chancellor as a party in person and therefore the Vice-Chancellor has personal grudge against him, which has led to the issuance of the impugned order of suspension. It was the further contention of the petitioner that the order of suspension has been passed in contravention to the service regulations governing the field inasmuch as the case of the petitioner does not fall in any of the provisions of clause 56 of statute 31 which deals with the

imposition of suspension also. Further contention of the petitioner was that, the fact that a person who is having a personal grudge against the petitioner is further granted the responsibility of holding an enquiry would be totally an empty formality because it would be a prejudice and predetermined enquiry which would be conducted by either respondent no.3 or by any of the officers working directly under the respondent no.3 and for all these reasons he prays for the quashment of the impugned order.

3. Learned counsel appearing for the University on the contrary submits that the petitioner has an alternative remedy of raising the dispute before the Chancellor if he is not satisfied with the decision of the University authorities particularly the Registrar and respondent no.3. It was the further contention of the University that it is only an order of suspension pending enquiry and it is not a punishment and there is hardly any scope of judicial review for this Court to exercise its powers under Article 226 of the Constitution of India. Further, that the petitioner in order to avoid facing the enquiry has filed the writ petition challenging the order of suspension itself. It was also the contention of the University that the contents of the order of suspension itself it is clear that the charges leveled against the petitioner are quite serious particularly those are of financial irregularities and which can only be verified by way an enquiry and not otherwise and therefore also the order of suspension cannot be said to be bad in law.

4. Taking into consideration the entire facts and circumstances of the case particularly the allegations and the counter-allegations made on either side, true it is that there are certain personal allegations levelled by the petitioner against the Vice-Chancellor and there are also a couple of writ petitions which he has filed, i.e., WPS No. 6077/2018 and WPS No. 7261/2018.

5. Now coming to the impugned order, from the plain reading of the contents of the impugned order itself it reveals that the allegations are of certain financial irregularities committed by the petitioner. The allegations are of tampering of the records particularly that of producing fake and fraudulent bills. These are facts which would require an enquiry, particularly perusing the records available with the institution where the petitioner was working at the relevant point of time.

6. This Court in exercise of its powers under Article 226 of the Constitution of India cannot substitute itself as an appellate body or a supervisory agency over the functioning of a college or for that matter a university, neither would it substitute itself as an appellate body to the decision taken by the executive council or for that matter the Vice-Chancellor of an University. It is settled position of law that this Court would in exercise of its writ jurisdiction or judicial review not conduct an enquiry into the allegations levelled against an officer/employee. These are matters which have to be dealt with and conducted on the administrative side by the department. It is only the decision making process that has to be looked into and not the decision itself.

7. The respondent no.2-institution is governed by the Chhattisgarh Vishwavidyalaya Adhiniyam, 1973. Clause 12.4 dealing with the powers vested upon the Chancellor reads as under:-

“12.4. The Kuladhipati may, by an order in writing, annul :

- (a) Any proceedings of any officer, authority, Committee or body of the University, constituted by or under this Act, which is not in conformity with this Act, the Statutes, Ordinances or the Regulations, or
- (b) Any proceedings of any authority, Committee or other body which has been referred to him by the Kulapati under sub-Section (7) of section 15, if he is satisfied that such proceedings are prejudicial to the interests of the University.

Provided that before making such order he shall call upon the officer, authority, committee or body concerned to show cause why such an order should not be made and if any cause is shown within the time specified by him in this behalf he shall consider the same.”

8. At the same time, under the same Act, clause 59.2 also deals with the powers vested upon the Chancellor, which has been reproduced herein below:-

“59.2 Any dispute regarding service matters arising out of contract or otherwise between a University and any of its salaried employees shall be adjudicated upon by the Vice-Chancellor and an appeal against the Vice-Chancellor's decision shall lie to the Kuladhipati, who shall decide the dispute himself or refer it to a Tribunal constituted for the purpose consisting of the following members namely;

- (i) a Senior Vice-Chancellor of any of the University.
- (ii) a Senior Secretary to the State Government; and
- (iii) a Senior Principal of the post graduate college of the State.”

9. From the plain reading of the aforesaid provisions of law, it would be evidently clear that the Legislature itself has provided sufficient powers to the Chancellor for ventilating the grievances of any officer/employee in respect of a decision taken by any of his University in the State. Clause 59.2 reproduced above reflects that, in case such a dispute raised by any of the aggrieved person before the Chancellor, the Chancellor can decide the dispute itself upon hearing the parties or on the alternative he has the powers to even constitute a Tribunal to look into the allegations for the proper resolution of the dispute.

10. Considering the aforesaid provisions available, this Court is of the opinion that since an inbuilt mechanism is already provided in the Act itself governing the institution, it would be more appropriate for the petitioner to approach the Chancellor against the order which is aggrieved of by raising a dispute within a period of seven days from today supported with all relevant documents and evidence that he has so far as his contentions are concerned. On such grievance being raised it expected that the Chancellor

shall act in accordance with the powers which are otherwise conferred upon the Chancellor, within a reasonable period of time.

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

Sd/-
(P. Sam Koshy)
Judge

/sharad/