

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 7798 of 2018**

Ishwar Singh Bisen S/o Late Ganesh Bisen, Aged About 56 Years,
R/o Jail Line, G-4, Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Home,
Mahanadi Bhawan, New Mantralaya, Naya Raipur Chhattisgarh
2. Jail Superintendent, District Jail Rajnandgaon, Chhattisgarh
3. Jail Superintendent Central Jail, Durg Chhattisgarh

---- Respondents

For Petitioners	:	Shri Varun Sharma, Advocate
For Respondent/State	:	Shri S. P. Kale, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29/11/2018**

The challenge in the present writ petition is the initiation of the disciplinary proceedings against the petitioner.

2. One of the foremost grounds which the petitioner has raised is that the Enquiry Officer who has been appointed is the same person who had earlier conducted the preliminary investigation and also given a report whereby he has held that the petitioner is guilty of the allegations levelled.

3. Counsel for the petitioner submits that since the same Officer who had conducted the preliminary enquiry has been appointed as Enquiry Officer, there is a great chance of bias on his part while conducting the departmental enquiry as an Enquiry Officer.

4. It would be relevant at this juncture to refer to the judgment of the Supreme Court in the case of M/s Crawford Bayley and Co. v. Union of India reported in (2006) 6 SCC 25 wherein paragraph-18 the Supreme Court has held as under:

“19. In view of the aforesaid observation made by this Court that 'no man can be a judge in his own cause' certain parameters have to be observed i.e. a personal bias of the person concerned or personal interest or person acted in the matter concerned and has already taken a decision which he may be interested in supporting the same. These parameters have to be observed before coming to the conclusion that 'no man can be a judge in his own cause'. This is a matter of factual inquiry. Be that as it may. Mr. Gopal Subramanian learned Addl. Solicitor General of India with his usual fairness has submitted that the officers who have been appointed as an Estate Officer though alleged to have been associated as an officer dealing with the eviction matters will not be presiding over as an Estate Officer. Therefore, in view of this submission made by Mr. Subramanian we do not think that the matter is required to be prosecuted further.”

5. Taking into consideration the observations made by the Hon'ble Supreme Court in the aforesaid judgment, this Court is of the opinion that the said observations would also squarely apply in the present case and it would be in the interest of justice as also in the interest of fair play that the respondents should consider appointing somebody else as an Enquiry Officer other than the present Enquiry Officer.

6. The writ petition accordingly stands allowed and disposed of with a direction to respondent no.3 to take an appropriate decision at the earliest for appointing some other officer under the respondents as an Enquiry

Officer to inquire into the charges which have been levelled against the petitioner. Let this exercise be done within a period of 45 days from today. Meanwhile, the present Enquiry Officer is ordered not to proceed with the inquiry proceedings.

Sd/-
(P. Sam Koshy)
JUDGE