

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-15962-2016 (O&M)

Date of Decision: 21.03.2018

Inderjit Singh

... Petitioner

Vs.

Union of India and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Puneet Sharma, Advocate
for the petitioner.

Mr. J.S. Puri, Advocate
for respondent No.3.

Mr. Bhavpreet S. Dhatt, Advocate
for respondent No.4.

Mr. Pranav Chadha, Advocate
for respondent No.5.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged the initiation of inquiry dated 29.12.2015 and one another inquiry dated 3.6.2016 (Annexure P-17 and P-24 respectively).

2. Initiation of inquiry could be looked into under Article 226 of the Constitution if there is any violation of statutory provision. Petitioner has remedy of filing reply/explanation to show cause notice. Therefore, he cannot knock the court door at this juncture. Hence, present petition is premature. Supreme Court in the case of **Secretary, Ministry of Defence and others** v. **Prabhash Chandra Mirdha**; (2012) 11 SCC 565 held in paras 10 to 12 as under:

“10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the

same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court. (Vide State of U.P. v. Brahm Datt Sharma, Bihar State Housing Board v. Ramesh Kumar Singh, Ulagappa v. Sommr., Special Director v. Mohd. Ghulam Ghouse and Union of India v. Kunisetty Satyanarayana.)

11. In State of Orissa v. Sangram Keshari Misra (SCC pp 315-16, para 10) this Court held that normally a charge-sheet is not quashed prior to the conducting of the enquiry on the ground that the facts stated in the charge are erroneous for the reason that to determine correctness or truth of the charge is the function of the disciplinary authority. (See also Union of India v. Upendra Singh.)

12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of a challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings. ”

3. In view of the principle laid down in the aforesaid decision, petition is premature.

4. Accordingly, petition stands dismissed.

21.03.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No