

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1703 of 2019**

Krishna Kumar Daharia S/o Shri Balaram Daharia, Aged About 41 Years, R/o Village - Bhatagaon, Tahsil Police Station And Post Balodabazar, District Balodabazar Bhatapara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Health And Family Welfare, Mahanadi Bhawan, Mantralaya, Police Station And Post - Rakhi, Atal Nagar, Raipur, District Raipur, Chhattisgarh
2. Director, Office Of Directorate, Block No. 1, Indravati Bhawan, 3rd Floor, Police Station And Post - Rakhi, Atal Nagar, Raipur, District Raipur Chhattisgarh
3. Chief Medical And Health Officer (CMHO), Office Of The Chief Medical And Health Officer (CMHO) Balodabazar, District Balodabazar Bhatapara, Chhattisgarh

---- Respondents

For petitioner	:	Shri Abhishek Pandey and Shri Santosh Pandey, Advocates.
For State	:	Shri P. Acharya, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11/03/2019

The present writ petition has been filed challenging the charge sheet which has been issued to the petitioner on 18.02.2019.

2. The challenge to the charge sheet is on four grounds. Firstly, the charge being quite vague, secondly the charge sheet not being in proper format as is required under the service rules. Third ground taken by the

petitioner is that the charge sheet does not disclose the list of witnesses to be relied upon by the department against the petitioner in the enquiry. The last ground which the petitioner has raised is that though the charge sheet shows certain enclosure of documents but those documents have not been provided along with the charge sheet to the petitioner.

3. The aforesaid contention of the petitioner seems to have some force on perusal of the impugned charge sheet dated 18.02.2019 itself. It would be relevant at this juncture to refer to the judgment of the Supreme Court in the case of **State of Punjab Vs. Bhagat Ram, 1979 (1) SCC 155** wherein the Supreme Court has in very categorical term laid down the principles and guidelines which should be borne in mind by the employer while issuing a charge sheet and conducting a departmental enquiry.

4. In the instant case, if the petitioner is not supplied with the list of witnesses and he is not provided with the documents which the department intends to rely upon against him, the petitioner's substantial right of defence would get adversely affected. Thus, the initiation of disciplinary proceeding thereafter would also be in violation of the basic principles of nature justice. Moreover, what has also to be seen is that when a charge sheet is issued, it should be enclosed with specific details of the alleged allegation of misconduct levelled against the petitioner in as much as the charge sheet should be supported with the articles of charges and the provisions of the rules which he has violated. In the instant case, the same also does not seem to be part of the charge sheet.

5. For all the aforesaid reasons, this Court is of the opinion that the charge sheet issued against the petitioner suffers from all the aforesaid technicalities and the same deserves to be and is accordingly set aside

reserving the right of the respondents to issue a fresh charge sheet if they feel so in accordance with the rules and regulations governing the field and also in the light of the observations made by this Court in the preceding paragraph.

6. With the aforesaid direction, the writ petition stands allowed and disposed of.

**Sd/-
(P. Sam Koshy)
JUDGE**

Khatai