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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3281 of 2019**

Rohit Kumar Pradhan S/o Late Tikanu Pradhan, Aged About 55 Years, Working As Assistant Grade II, Employees State Insurance Services, Raipur Centre (Choubey Colony), R/o Near Kachna Road, Khamhardih, Ekta Chowk, Raipur, District- Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Labour, Mantralaya, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
2. Director, Employees State Insurance Services, Chhattisgarh, Raipur, Indrawati Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
3. Commissioner, Bilaspur Revenue Division, District- Bilaspur, Chhattisgarh
4. Collector, Raigarh, District- Raigarh, Chhattisgarh
5. Additional Collector, Raigarh, District- Raigarh, Chhattisgarh
6. Insurance Medical Officer, Employees State Insurance Services, Raipur Centre, Choubey Colony, Raipur, District- Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri R. K. Kesharwani with Shri Vikash Dubey, Advocates
For State	:	Shri Saleem Kazi, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03.05.2019**

1. The challenge in the present writ petition is to the show cause notice Annexure P-1 dated 23.02.2019 whereby respondent no.3, the Commissioner, Bilaspur Division has called upon the petitioner to submit his reply within a period of 15 days in respect of some allegations of misconduct, failing which disciplinary proceeding would be initiated against the petitioner.
2. The ground of challenge to the show cause notice is that the Commissioner, Bilaspur Division is not the competent authority to issue show cause notice to the petitioner. According to the petitioner, he is a Class-III employee working on the post of Assistant Grade-II in the Employees State Insurance Services presently posted at Raipur. The alleged incident that is referred in the show cause notice is one which is said to be occurred in the year 2017 when the petitioner was posted at Raigarh. According to the petitioner, as on date, if at all if any disciplinary proceeding has to be acted upon, it should be done by the authority having jurisdiction over the place where the petitioner is presently posted and not the officer from Bilaspur. Further contention of the petitioner is that the disciplinary authority of the petitioner is respondent no.2, the Director of the Employees State Insurance Services and not the Commissioner. Even otherwise, so far as Class-III employees are concerned, the disciplinary action should have been initiated only by the Collector and not by an Officer of the rank of Commissioner. Thus, the impugned show cause notice is per se without any authority and competence and the same liable to be set aside.
3. State counsel, however, opposing the petition submits that it is only a show cause notice that has been issued by respondent no.3 and all that required is the explanation of the petitioner. He submits that in case the petitioner is

able to provide a satisfactory explanation, the Commissioner may drop the entire proceedings itself or may order for initiating disciplinary action. According to the State counsel, merely because a show cause notice has been issued by the Divisional Commissioner, by itself would not hold it to be a disciplinary proceeding which has been initiated or a final order that has been passed by the commissioner. According to the State counsel, the contentions which the petitioner has raised are all apprehensive ground which could be very well looked into by the Commissioner himself if the petitioner takes such ground in the explanation. At the same time, if the disciplinary action is to be initiated, that would be looked into by the authority that the action is initiated by the competent authority under the rules. Thus, prayed for rejection of the writ petition.

4. Having heard the contentions put forth on either side and on perusal of record, from the proceedings it appears that there was initially a show cause notice issued to the petitioner way back in the year 05.08.2017 to which the petitioner submitted his reply on 10.08.2017. Thereafter, there does not seem to have been any further progress on the show cause notice and the petitioner meanwhile stood transferred from Raigarh to Raipur. However, now the Divisional Commissioner, Bilaspur who does not have the territorial jurisdiction over the present place of posting of the petitioner has issued the show cause notice Annexure P-1. Since it is only a show cause notice in respect of the alleged incident that occurred within the area under respondent no.3, he seems to have issued a show cause notice calling for an explanation from the petitioner. Mere issuance of a show cause notice by itself cannot be said that the Department has decided to initiate disciplinary proceeding against the petitioner. If the petitioner is

able to provide cogent explanation to the show cause notice, there is all possibility that respondent no.3 himself would not proceed further thereon. If at all if respondent no.3 finds that there are certain materials against the petitioner so far as the alleged act of misconduct is concerned, respondent no.3 would look into the aspect whether he is competent to initiate disciplinary proceeding against the petitioner or not and whether he has the power to proceed further with the matter or not. If not, the same should be placed before the competent authority/disciplinary authority for necessary action.

5. In view of the same, this Court at this juncture would not like to interfere with the show cause notice. However, liberty is reserved for the petitioner to submit a detailed reply to the show cause notice issued wherein he could also raise the ground of competency and power of the Commissioner to issue a show cause notice to the petitioner who presently is posted at Raipur and any other ground which the petitioner intends to raise. If such grounds are raised, the respondent no.3, Commissioner would also consider those grounds and thereafter proceed further in accordance with the rules and regulations governing the field.
6. The writ petition accordingly stands disposed of.

Sd/-
P. Sam Koshy
Judge