

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5173 of 2019

Nicholas Xalxo S/o Late Shri Marsel Xalxo, Aged About 57 Years R/o in front of Rameshvar Nath Temple, Gulab Nagar, Mopka, Bilaspur, Police Station - Civil Line, Tahsil and District - Bilaspur Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through its Secretary, Department of Home / Police, Mahanadi, Mantralaya, Police Station and Post - Rakhi, Atal Nagar, Raipur, District - Raipur Chhattisgarh.
2. Director General of Police (D.G.P.) Police Headquarters (PHQ) Near Mahanadi, Mantralaya, Police Station and Post - Rakhi, Atal Nagar, Raipur District - Raipur Chhattisgarh.
3. Inspector General of Police (I.G.P.) Office of Inspector General of Police (I. G.P.) Near Nehru Chowk, Bilaspur District Bilaspur Chhattisgarh.
4. Superintendent of Police (S.P.) Office of Superintendent of Police (S P), Bilaspur District Bilaspur Chhattisgarh.
5. Enquiry Officer / Additional Superintendent of Police (City) Office of S.P. Bilaspur District Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Abhishek Pandey and Ms. Arti Manjhi, Advocates.
For State	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16.07.2019

1. Challenge in this petition is to the charge sheet which was issued to the petitioner on 24.06.2009 and the enquiry report submitted on 12.09.2018.
2. The petitioner has challenged the same on the ground of competency and the authority of the respondents in issuing the charge sheet. The second ground is that, though according to the petitioner the enquiry was concluded in the year, 2010 itself, but with mala fide intention they have now submitted the enquiry report after a period of 10 years time with an intention to victimize the petitioner. He further submits that he has already been issued a second show cause notice on 03.06.2019.
3. Without entering into the merits of the case, so far as the objection that the petitioner has raised as regards the competency and jurisdiction of the

authorities in issuing charge sheet etc. is concerned, this court is of the opinion that the writ petition in its present form is not maintainable for two reasons. Firstly, the charge sheet which is under challenge is one which was issued way back more than 10 years ago on 24.06.2009. The petitioner permitted the respondents to proceed further with the charge sheet all along. Therefore, at this juncture it would not be justified for this court to interfere with the same in exercise of its power under Article 226 of the Constitution of India.

4. Secondly, if we also look into the other documents it reveals that the enquiry report also has been issued about one year back i.e. on 12.09.2018 which too was not questioned by the petitioner at that point of time and has now filed the writ petition after issuance of a second show cause notice on 03.06.2019.
5. Given the aforesaid facts, this court is of the opinion that the writ petition at this juncture would not be maintainable. Reserving the right of the petitioner to take all these grounds of jurisdiction, competency and authority of the officer passing the orders in his reply to the second show cause notice, the present writ petition stands disposed of.
6. The respondent authorities on receiving such reply of the petitioner are duty bound to consider these objections which he raises particularly in respect of competency and jurisdiction of the officer initiating the proceedings while taking decision on the reply to the second show cause notice.
7. Accordingly, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge