

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6071 of 2019**

Shrinivas Rao Naidu, S/o Late K. S. Rao, Aged About 46 Years
Section Officer, (Suspended) O/o The High Court Of Chhattisgarh,
Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. High Court Of Chhattisgarh Through Its Registrar General, Bodri, Bilaspur, Chhattisgarh.
2. Joint Registrar Cum Enquiry Officer, High Court Of Chhattisgarh, Bodri, Bilaspur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Awadh Tripathi, Advocate
For Respondents	:	Ms. Fouzia Mirza, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/09/2019**

1. The challenge in the present writ petition is to the order passed by the Inquiry Officer refusing to recall the witnesses for cross-examination.
2. The contention of the petitioner is that an F.I.R. was lodged against the petitioner on 15.06.2017 for the offence punishable under Section 420 and Section 34 of Indian Penal Code and the petitioner had been trying to obtain the bail in the said proceedings both anticipatory and thereafter regular bail. In between the petitioner was arrested on 18.06.2018 and he could finally get bail only on 07.09.2018. Thereafter the petitioner being released on bail came to know that the respondents have already initiated a disciplinary proceedings against the petitioner and the Inquiry Officer also have recorded the statement of most of the complainants. But since the petitioner could not appear before the Inquiry Officer at that point of time, the witnesses examined were not cross-examined and he has moved an application for

permission to cross-examine the witnesses on 13.07.2019, which was finally rejected on 30.07.2019.

3. The counsel for the petitioner submits that all these witnesses have been examined during the period between 29.01.2018 to 03.07.2018. The petitioner further submits that in the event if the departmental enquiry now is proceeded and concluded, the petitioner loses his substantive right of cross-examining the witnesses on whose deposition the entire case revolves and therefore he be permitted a chance to cross-examine the witnesses. The petitioner further undertakes to bear the entire expenses in calling for these witnesses for examination before the Inquiry Officer.
4. The counsel for the respondents on the other hand opposing the petition submits that the petitioner was arrested only on 18.06.2018 and many of the witnesses have been examined before that and the petitioner was aware of the departmental proceedings, but he chose not to appear of his own, therefore he should not be granted any opportunity now.
5. Having heard the contentions put forth on either side and on perusal of record, once when we consider the fact that the petitioner is being subjected to a disciplinary proceeding, it is always expected that the disciplinary proceeding is conducted in a fair and reasonable manner.
6. True it is that the petitioner of his own did not appear before the Inquiry Officer, till the date of his arrest on 18.06.2018, but from the records it appears that the petitioner during the said period had been trying to obtain anticipatory bail by moving appropriate application before the different Courts and thereafter the petitioner finally got

arrested on 18.06.2018 and he was only released on bail on 07.09.2018 and during the said period most of the witnesses particularly the complainants have been examined and were let off without any cross-examination.

7. Given the said facts and circumstances of the case, in order to provide a fair opportunity to the petitioner to defend himself and also taking note of the principles of natural justice in which it is expected that the petitioner gets a reasonable chance of defending himself, this Court is of the view that let the Inquiry Officer call upon all the witnesses, who have been examined till now in his absence and who have not been cross-examined and for calling these witnesses the entire expenses incurred shall be borne by the petitioner himself, the amount of which shall be decided by the Inquiry Officer in the course of the proceedings, if required the Inquiry Officer can also get the witnesses cross examined at their own residence or through video conferencing.
8. The Inquiry Officer may call upon these witnesses either on one day or on the date convenient to the parties to the proceedings at regular intervals and the entire inquiry be concluded as far as possible within a further period of three months. The petitioner also is directed to ensure that he shall not try to linger on the proceedings any further and shall make use of each of the opportunities by providing all cooperations for early conclusion of the departmental enquiry.
9. With the aforesaid observations, the present writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge