

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6789 of 2019**

Leeladhar Verma S/o Late Khorbahra Ram Verma Aged About 42 Years Posted As Assistant Sub Inspector (Ministerial) Office Of Superintendent Of Police, Durg District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Principal Secretary, Department Of Home, Mahanadi Bhawan Mantralaya Atal Nagar Naya Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Superintendent Of Police Durg Range, District Durg Chhattisgarh, District : Durg, Chhattisgarh
3. Inspector General Of Police Durg Range, District Durg Chhattisgarh, District : Durg, Chhattisgarh
4. Deputy Superintendent Of Police (Shri Pramod Gupta) Durg, District Durg Chhattisgarh, District : Durg, Chhattisgarh

----Respondents

For Petitioner	:	Ms. Arti Chandra Dutt., Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/09/2019**

1. The challenge in the present writ petition is to the preliminary inquiry report dated 01.03.2019 (Annexure P/4) and the subsequent charge-sheet dated 02.07.2019. The petitioner has also challenged the appointment of the Inquiry officer dated 31.07.2019.
2. The main contention of the petitioner is that the preliminary enquiry and its report is per-se illegal and bad for the reason that it has been conducted by a person, who himself is involved in the said transaction and charges. Therefore his finding would always be prejudicial to the petitioner and the charge-sheet subsequently based on this preliminary inquiry report also deserves to be quashed at this juncture, directing the respondents to conduct a

fresh preliminary enquiry, if inquired by a neutral and an unbiased person not involved in the alleged allegations.

3. This Court at the threshold itself is of the view that since there are specific allegations leveled against the petitioner and a charge-sheet has been issued, the requirement of law is that the petitioner may give a detailed reply to the charge-sheet taking all the defense that he intends to take to prove his innocence. While doing so the petitioner would also have the liberty to take the ground of bias on the part of the officer conducting the preliminary enquiry and also showing the authorities as to how his right has been prejudicially affected by such a preliminary enquiry.
4. On the petitioner or the delinquent submitting such a reply to the charge-sheet, it is expected that the Disciplinary Authority would consider the grounds raised by the petitioner in his reply to the charge-sheet and thereafter ascertain whether any charge is made out against the petitioner at the first instance and secondly whether there has been a prejudice caused to the petitioner and the Disciplinary Authority is always expected to take a fair decision in this regard.
5. So far as the scope of interference in a matter of charge-sheet is concerned, it is by now a well settled proposition of law that the High Court under Article 226 of the Constitution of India would not substitute itself as another fact finding body or an Appellate Authority of the disciplinary action. Neither does the High Court has the power to threadbare re-appreciate the evidence which the management intends to bring or conduct a roving inquiry itself to decide whether a misconduct has been made out or not.

6. Now that the Inquiry officer also has been appointed, the right of the petitioner is reserved to approach the Inquiry officer as well as Disciplinary Authority so far as his objections are concerned in respect to the preliminary enquiry conducted by Shri Pramod Gupta, the DSP.
7. The Inquiry officer as well as the Disciplinary Authority are expected to consider these contentions and would also look into the aspect as to whether the said person who has conducted the preliminary enquiry was also in any manner connected or related to the charges leveled against the petitioner and thereafter the authorities concerned are expected to proceed further with the disciplinary proceedings in accordance with law.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved