

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7875 of 2019**

Girdhari Lal Chauhan S/o Shri Chhatt Ram Chauhan, Aged About 52 Years, Posted As Lecturer At Government Higher Secondary School Adbhar, Block Sakti, District Janjgir-Champa, Chhattisgarh. Earlier Posted As Block Resource Coordinator (BRC) At BRC Office Sakti Block Sakti, District Janjgir-Champa, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya New Raipur, Police Station Rakhi, District Raipur, Chhattisgarh.
2. The Commissioner, Bilaspur Division, District Bilaspur, Chhattisgarh.
3. Collector, District Janjgir Champa, Chhattisgarh.
4. The Director, Directorate Of Public Instruction Chhattisgarh, Indrawati Bhawan, New Raipur, Chhattisgarh.
5. The Deputy Director, Directorate Of Public Instruction Chhattisgarh Indrawati Bhawan, New Raipur, Chhattisgarh.
6. The District Education, Sakti, District Janjgir-Champa, Chhattisgarh.
7. The Block Education Officer, Sakti, District Jajgir-Champa Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Jeet Patel, Advocate
For State	:	Mr. Ashutosh Mishra, P.L.

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

26.09.2019

1. The challenge in the present writ petition is to the charge sheet dated 07.08.2019 issued against the petitioner for certain alleged misconduct.
2. The challenge is on the ground that prima facie, the charges are not made out.
3. However, on a query being put to the counsel for the petitioner, he submits that the reply to the charge sheet has till date not been submitted by the petitioner to the authorities concerned.
4. Given the said fact, this Court is of the opinion that invoking the writ jurisdiction of this Court at this juncture interfering with the charge sheet would not be sustainable. The petitioner ought to have given his explanation to the alleged charges which are levelled against him and the respondent authorities concerned are expected to duly consider those contentions and then take a decision whether they intend to proceed against the petitioner in a disciplinary proceeding or they intend to drop the proceeding.
5. The law so far as interference at the stage of charge sheet is by now well settled. The Supreme Court in case of Union of India Vs. Kunisetty Satyanarayana, reported in 2006 (12) SCC 28, has held that:

“15. Writ jurisdiction is discretionary jurisdiction and hence, such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.”

“16. No. doubt, in some very rare exceptional cases the High Court can quash a Charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However,

ordinarily the High Court should not interfere in such a matter.”

6. Again, the Hon'ble Supreme Court in the case of Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha [2012 11 SCC 565] in paragraph 10 & 12 has held as under:-

“10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court.”

7. Given the aforesaid facts and the legal position, this Court does not find any strong case made out by the petitioner at this juncture. The writ petition accordingly stands rejected.
8. However, the petitioner is directed to submit detailed reply within a period of 15 days from the date of receipt of certified copy of this order which the disciplinary authority shall consider and then decide on its own merit in accordance with law ignoring the aspect of not filing it within the stipulated time.

**Sd/-
P. Sam Koshy
Judge**