

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3703 OF 2019**

1. Smt. Janki Sahu, W/o. Shri Lalaram Sahu, Aged About 45 Years, R/o. Village Chardongari, P.S. Pipariya, District Kabirdham, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through - Secretary, Panchayat And Gramin Vikash Vibhag Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh
2. Commissioner, Durg, District Durg, Chhattisgarh
3. Collector, Kabirdham, District Kabirdham, Chhattisgarh
4. Sub Divisional Officer (Revenue), Kawardha, District Kabirdham, Chhattisgarh,
5. Chief Executive Officer, Janpad Panchayat, Kawardha, District Kabirdham, Chhattisgarh

-----Respondents

For Petitioner	: Ms. Upasana Mehta, Advocate.
For State	: Ms. Sunita Jain, Govt. Adv.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17.10.2019**

1. The challenge in the present writ petition is to the order Annexure P-2 dated 13.09.2019 passed by the respondent No. 4.
2. At the outset, this Court is of the opinion that the writ petition is not maintainable for the reason that the challenge in this petition is only to a show-cause notice whereby an explanation has been sought in respect of the payments received by the petitioner and the actual payment released by the petitioner.

3. So far as the scope of interference by the High Court in show-cause notice is concerned it is by now well settled by a catena of decisions of Supreme Court herein under:-

“The Supreme Court in the case of ***State of Uttar Pradesh v. Brahm Datt Sharma & Anr. [1987 2 SCC 179]*** dealing with the scope of judicial interference in disciplinary matters was of the opinion that, “the purpose of issuing show cause notice is to afford an opportunity of hearing to the Government servant and once cause is shown and is open to the Government to consider the matter in the light of the facts and submissions placed by the Government servant, only thereafter a final decision in the matter could be taken. Interference by the Court before that stage would be premature and the Hon'ble Supreme Court went on holding that, the High Court in our opinion ought not have interfere with the show cause notice.”

4. A similar view has been taken by the Supreme Court in case of Union of India Vs. Kunisetty Satyanarayana, reported in 2006 (12) SCC 28, the Supreme Court 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.”

5. 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.”

6. Given the aforesaid legal position as it stands and also that the order under challenge is only a notice sought for by the petitioner to explain so far as the amount which has been released as against the amount which has been actually paid and the difference amount which is recoverable from the petitioner is concerned, this Court does not find a strong case calling for an interference with the show-cause notice.
7. At this juncture, reserving the right of the petitioner to enter appearance before the authorities and submitting their detailed reply. The present writ petition accordingly stands rejected.

Sd/-
(P. Sam Koshy)
Judge