

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

LPA No. 865 of 2019 (O&M)

Date of Decision: 03.05.2019

Rakesh Meena

.....Appellant

versus

Central University of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Praveen Chandra, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 26.03.2019 passed by the learned Single Judge dismissing the petition filed by the appellant challenging a show cause notice issued by the Registrar of the respondent-university.

2. The facts are that the petitioner who was working as Assistant Professor in law in the respondent No.1 University was served with a notice requiring him to show cause with 10 days as to why disciplinary action should not be initiated against him in terms of the Ordinance V (B) Rule (ii) of Central University of Haryana.

3. The appellant-petitioner challenged the same by filing the writ petition. Learned Single Judge dismissed the same on the ground that by the impugned notice the petitioner has only been asked to show cause and it was open to him to take all the pleas in the reply to the said notice. Learned counsel for the petitioner has vehemently contended that the notice is an outcome of malice and grudge against him since he was participating in the

activities of Association of Teachers formed to promote the welfare of the teachers and academic development which is a registered society. It is also alleged that malice and grudge against the petitioner is also because of the fact that certain legal proceedings were initiated by filing the writ petition and contempt petition before this Court.

4. We have considered the arguments advanced by learned counsel for the appellant.

5. From a bare perusal of the pleadings of the writ petition it becomes clear that the allegations have been made in respect of Civil Writ Petition No. 22610 of 2017 which has been filed by certain persons including one Dr. Manoj Kumar who is stated to be the Vice President of the Association challenging the advertisement of the recruitment. Reference has also been made to another Civil Writ Petition No. 5313 of 2019 wherein order terminating the services of one Dr. Manoj Kumar was put to challenge. Reference has also been made to COCP No. 913 of 2019 which is alleged to have been filed by one Dr. Manoj Kumar in his personal capacity. Though the details of the aforesaid case against the University filed by different persons have been mentioned in the pleadings but how the same have resulted in any malice or ill will against the appellant-petitioner has not at all been pleaded.

6. We see no apparent connection or link between the proceedings referred to in the pleadings and the petitioner so as to come to the conclusion that the impugned notice is a result of ill will and malice on account of said legal proceedings. One of the cardinal principles of law is that in case any malafide or ill will is alleged against an authority, he ought to be impleaded by name. In the case in hand, firstly there are no pleadings of ill will or malice nor any of the authorities have been impleaded by name.

7. In view of the above facts, the arguments advanced by learned counsel for the appellant that the impugned show cause notice is a result of malafide, ill will or malice is not liable to be accepted.

8. During the course of arguments, leaned counsel for the appellant has also placed reliance upon the following judicial pronouncements:-

- i) ***Government of Tamil Nadu v. K.N.Ramamurthy 1997(7) SCC 101,***
- ii) ***Government of A.P. rep. by its Secretary to Government, I and CAD (CAD SER.II) Deptt. and others v. M.A.Majeed and another 2006(8) SLR (AP-FB) 243.***
- iii) ***Dy. Inspector General of Police v. K.S.Swaminathan 1996(11) SCC 498.***
- iv) ***Dalabhai Bhimabhai Patel v. Deputy Commissioner of Police, Ahmedabad and another (1992) IILLJ 720 Gujarat.***
- v) ***Surath Chandra Chakrabarty v. State of West Bengal AIR 1971 SC 752.***
- vi) ***State of Punjab v. V.K.Khanna 2001(2) SCC 330.***

9. Having gone through the judgments referred to above, we are of the considered opinion that they have no application at all to the facts and circumstances of the present case. The judgment rendered in case of ***Government of Tamil Nadu v. K.N.Ramamurthy (supra)*** pertains to challenge to an order of punishment inflicted after disciplinary enquiry. Second judgment in the case of ***Government of A.P.O. v. M.A.Majeed (supra)*** pertains to a disciplinary enquiry. Similarly the judgment in the case of ***Deputy Inspector General of Police v. K.S.Swaminathan (supra)*** is on the issue that even if the charge memo is totally vague and does not disclose any misconduct for which the charges have been framed, it cannot be gone into at the stage of framing of charges for it would be a matter of evidence for consideration at the enquiry by the Enquiry Officer.

10. The judgment relied upon in the case of ***Dalabhai Bhimabhai Patel v. Deputy Commissioner of Police (supra)*** is again not applicable because in the said case the challenge was brought to the departmental enquiry. The judgment in the case of ***Surath Chandra Chakrabarty v. State of West Bengal (supra)*** again deals with the issue of vagueness of charge sheet and whether the same should be accompanied by the statement of allegations.

11. The judgment relied upon by learned counsel for the appellant in the case of ***State of Punjab v. V.K.Khanna (supra)*** again is a case where the charge sheet was impugned. In the case in hand, challenge is only to a notice to show cause as to why departmental proceedings may not be initiated against him. Thus the case law relied upon by learned counsel for the appellant has no application in the facts of the present case. Learned Single Judge has rightly dismissed the writ petition as being pre-mature leaving it open to the appellant-petitioner to give reply to the show cause notice.

12. We find no ground or reason to take a view different from the one taken by the learned Single Judge. Accordingly, the impugned judgment does not suffer from any infirmity which may require our interference. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

03.05.2019
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√