

**106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-25353-2019
Date of decision : 16.09.2019**

Vikas Garg

..... Petitioner

VERSUS

Director Discipline, The Institute
of Company Secretaries of India
and Others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Mansur Ali and
Mr. Atul V. Sood, Advocates
for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

1. The petitioner has challenged the report Annexure P-1 of the disciplinary enquiry Committee of The Institute of Company Secretaries of India at a premature stage as no final order has yet been passed by the competent authority to impose punishment or otherwise and he has been asked to come for a hearing. He is still to be heard on the objections to the report he may like to file. If the petitioner is so convinced with his innocence, as Mr. Mansur Ali tries to make out, why should he shy away from proving it before the final internal authority of the Institute by explaining his case at the opportunity of hearing offered to him? It cannot be successfully argued and accepted by this Court that the petitioner will inevitably be held guilty of the alleged professional misconducts he is

charged with even without offering him an effective and meaningful opportunity of hearing and considering all his submissions made during the hearing, orally or in writing to be decided by reasons to be recorded in writing, agreeing or disagreeing with the defenses taken in the objections. Fair hearing, after all, is the minimum guarantee for every citizen whilst venturing to do justice according to law; and, that is something this Court expects of a standard to be always maintained by the authorities while deciding on a show cause notice after inquiry and the rebuttable reasons contained therein upon the evidence. Albeit this Court can express no final opinion in the case on merits as it is not called upon to in the premises as there is also no occasion to do so, presently.

2. With these observations the petition is marked as premature as no final orders have been passed by the last authority in the Institute empowered to do so to evaluate the degree of delinquency or the lack of it. Normally the writ Court would refuse to entertain a writ petition in which an impugned order has not come into existence and is not under direct challenge and against which there is no regular alternative remedy available. In case a regular statutory remedy is available must be followed but it will still be open to a person aggrieved to approach the writ Court against the final verdict and give reasons why the appellate jurisdiction may be bypassed as incapable of doing justice between the parties. And to plead and prove that a petition presented under Articles 226 or 227 of the Constitution is the only appropriate remedy, for which purpose he may take remedial action, as advised, and press valid grounds at the appropriate stage and take steps to protect himself within and subject to the laws; which, if filed, will, needless to say, be decided on its jurisdictional parameters and substance in

accordance with law.

3. It was brought to my notice after the order was passed in Court and before signing that Mr. Mansur Ali’s power of attorney to represent the petitioner is not on record but this should not be ground to undo the order, if taken by the petitioner, since I heard him at great length.

4. The petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

16.09.2019
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No