

CWP-31987-2019

168

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

CWP-31987-2019

Date of decision : 04.11.2019

Ishwar Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: None.

AMIT RAWAL, J. (ORAL)

The petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari*, quashing order dated 16.09.2019 (Annexure P-2) passed by respondent No.4, whereby departmental enquiry has been ordered against the petitioner, on having been falsely implicated in a criminal case bearing FIR No.376 dated 15.09.2019 under Sections 147, 149, 323/354-B/506 of the Indian Penal Code, Police Station at Khedki Daula, District Gurgram and subsequent proceedings and further writ of mandamus directing the respondents to held in abeyance the departmental proceedings till the final decision of criminal case.

As per averments in the writ petition, in both departmental and criminal proceedings, most of the witnesses are common/identical. In case the witnesses are examined in departmental proceedings, then it will affect his right in defending the criminal proceedings. In support of the averments, reliance has been placed upon the *ratio decidendi* culled out by

CWP-31987-2019

Hon'ble the Supreme Court in **"Capt. M. Paul Anthony V/s Bharat Gold Mines Ltd." 1999 (2) SCT 660.**

I have appraised paper book and of view that since few of witnesses are common/identical in both the proceedings, the Department shall not examine the common/identical witnesses, until and unless, they are examined in the criminal proceedings first, as there is perceptible apprehension of disclosing the defence.

It is made clear that in case, the petitioner is found to be delaying in cross-examination of same set of the witnesses in the criminal proceedings, this order will not come in the way of the Department to examine the said witnesses.

With the aforesaid observations, the present writ petition stands disposed of.

04.11.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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