

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 188 of 2020**

Mahesh Singh Dhurwe S/o Shri Mitthu Singh Aged About 28 Years
R/o Gram Panchayat, Pondi Vikaskhand Bodla, District Kabirdham,
Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan Mantralaya, Naya Raipur, Atal Nagar, District Raipur Chhattisgarh
2. Chief Executive Officer Zila Panchayat Kabirdham, District - Kabirdham, Chhattisgarh
3. Sub-Divisional Officer Janpad Panchayat, Bodla, District - Kabirdham, Chhattisgarh
4. Chief Executive Officer Janpad Panchayat, Bodla, District - Kabirdham, Chhattisgarh
5. Collector Kabirdham, District - Kabirdham, Chhattisgarh
6. Tahsildar Tahsil -Bodla, District - Kabirdham, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rajeev Shrivastava, Advocate along with Mr. Malay Shrivastava, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G. and Mr. Somkant Verma, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/01/2020**

1. The challenge in the present writ petition is to the order of suspension dated 30.11.2019 Annexure P/1 and a charge-sheet dated 22.11.2019.
2. The main ground of challenge by the petitioner is that the order of suspension as well as the charge-sheet is without proper application of mind. On merits also the contents of the petition is that the allegations leveled against the petitioner in the charge-sheet are baseless as there are documents to show that the entire action,

which has been acted upon was with the consent and approval of the Gram Panchayat. The petitioner as such cannot be said to have committed any misconduct or illegality or for that matter misappropriation of funds.

3. Perusal of the record would show that the petitioner was issued with a show cause notice on 22.11.2019 asking the petitioner to submit his reply by the 27.11.2019. According to the petitioner, he has submitted his reply on 27.11.2019. However, it is reflected from the record that on the same day i.e. on the date when the petitioner was issued with a show cause notice, he was also issued with a charge-sheet, which according to this Court seems to be too early a decision on the part of the respondents. Once when they have issued a show cause notice to the petitioner, they should have waited till the reply of the petitioner or till 27.11.2019 that is the time that was granted to the petitioner and thereafter should have taken a decision, whether the charge-sheet has to be issued or not. Now, if at all if the petitioner has been issued with the charge-sheet, it is expected that the petitioner would be granted a reasonable time to file his reply to the charge-sheet and thereafter the authorities concerned, shall taking into consideration the reply that he submits to the charge-sheet before proceeding further with the proceedings under Section 40 that is contemplated.
4. Given the said facts, this Court is not inclined to entertain the writ petition at this stage of issuance of the show cause notice or for that matter issuance of the charge-sheet. It is by now well settled proposition of law that the High Court under Article 226 would not

substitute itself as a Disciplinary Authority, nor would the High Court exercising the power of judicial review conduct by itself a roving inquiry into the allegations made as such. Moreover, issuance of a show cause notice or for that matter a charge-sheet by itself would not require an interference when the petitioner can approach before the authorities by submitting his reply to the allegations leveled and the authorities would be also expected to take a decision on the same, either dropping the proceedings or proceeding further if the reply and the contents therein are not satisfactory.

5. The view of this Court stands fortified by the decision of the Hon'ble Supreme Court in the case of **“Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha” [2012 11 SCC 565]** wherein in paragraph 8, 10 & 12 the Hon'ble Supreme Court has held as under:-

“8. The law does not permit quashing of “charge-sheet in a routine manner. In case the delinquent employee has any grievance in respect of the charge-sheet he must raise the issue by filing a representation and wait for the decision of the disciplinary authority thereon.

10. Ordinarily a writ application does not lie against a chargesheet 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.

12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues.”

6. Given the said facts and circumstances of the case, this Court is of the opinion that the present writ petition at this juncture can be disposed of directing the petitioner to submit a detailed reply to the charge-sheet, if he has not filed till date and the authorities concerned would consider the contents of the said reply before proceeding further with the proceedings under Section 40. The petitioner is expected to submit his reply to the charge-sheet, if he has not filed it till now within a period of 7 days from the date of receipt of the copy of this order.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved