

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2469 of 2020

- Janendra Kumar Sharma S/o Late Lekha Chand Sharma Aged About 32 Years Working As Senior Assistant, Chhattisgarh State Cooperative Marketing Federation, Office Of The District Marketing Officer, Kanker, District Kanker, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Co-Operative Societies, Mantralaya, Nava Raipur Atal Nagar, Raipur, District Raipur, Chhattisgarh
2. The Registrar Co-Operative Societies, Indravati Bhawan, Nava Raipur Atal Nagar, Raipu
3. Managing Director Chhattisgarh State Cooperative Marketing Federation, Sixth Floor, Tower C Commercial Complex, Cbd Sector-21, Nava Raipur Atal Nagar, Raipur,
4. The Secretary Chhattisgarh State Cooperative Marketing Federation, Sixth Floor, Tower C Commercial Complex, Cbd Sector-21, Nava Raipur, District Raipur, Chhattisgarh
5. District Marketing Officer Chhattisgarh State Cooperative Marketing Federation Kanker, District Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vikas Dubey, Advocate
For State/ respondents No. 1 & 2	:	Mr. Amrito Das, Addl. A.G.
For respondents No. 3 to 5	:	Mr. Prafull N. Bharat, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order

29.06.2020

1. Heard
2. The present petition has been filed by the petitioner seeking following reliefs:-

- (i) To kindly quash the charge-sheet dated 20.02.2020 (Annexure P/1) issued by the respondent No. 3.
- (ii) To kindly pass any order or grant any other relief which this Hon'ble Court deems fit under the facts and circumstances of the case.

3. Learned counsel for the petitioner would submit that the petitioner was served with a charge-sheet dated 20.02.2020 with the allegation of charges on the ground that the petitioner has failed to join the job at his place of transfer. He would submit that the document Annexure P/3 dated 20.11.2019 would show that the petitioner had joined at the place of transfer on 20.11.2019 and thereafter was discharging his job at the Paddy Collection Center, Karup-2, District Kanker, the place where he was transferred. He would submit that the petitioner is being treated with all mala fides, prejudices and bias, and despite the fact that the petitioner has joined at his place of transfer, he has been served with the charge-sheet. Therefore, since the entire proceeding in the enquiry is tainted with bias and prejudice, the law as laid down in the **State of Punjab vs. V.K. Khanna**¹ would be applicable and this Court would be justified in making interference even with the charge-sheet and enquiry. He also submits that since already the writ petition has been filed on the earlier occasion, wherein the transfer to Karup-2 and the instructions to procure paddy is under judicial scrutiny the bias exists in subsequent actions, therefore the question of alternate remedy would not be applicable.
4. Per contra, learned counsel for the respondents No. 3 to 5 would submit that in order to cover up the subordination, this writ petition has

1. (2001) 2 SCC 330

been filed. As the petitioner was transferred to Paddy Collection Center, Karup-2, District Kanker on 31.10.2019 and he joined at the place of transfer on 20.11.2019, but in between he deliberately avoided to join at the place of transfer, and this was the act of subordination and caused loss to the respondents. He would submit that earlier the petitioner has also filed WPS No. 10871/2019 whereby the petitioner sought for relief that no guideline has been given in collection of the paddy and in order to by pass his subordination, that writ petition was initially filed whereas the guideline was already issued since 1998-99 about the collection of the paddy. Therefore, the instant writ petition is not tenable and is on wrong factual aspects.

5. Learned State counsel refers to Section 55(2) of the Chhattisgarh Co-operative Societies Act, 1960 (henceforth 'the Act') and would submit that since it is a factual dispute, being projected by the petitioner about the joining and/ or non-joining at certain date, consequently, it cannot be gone into by this Court to adjudicate under Article 226 of the Constitution of India. It is stated that Section 55(2) of the Act provides an alternate remedy as it includes the working condition and disciplinary action, if are required to be challenged, it has to be challenged before the Assistant Registrar. Therefore, the petitioner is required to challenge the same contemplated action before appropriate forum. It is stated that in para 5 of the writ petition, the petitioner has pleaded that there is no alternate remedy available but statutory alternate remedy is available.
6. After appreciating the arguments of the parties, the issue comes to fore of dispute about joining at the place of transfer. The petitioner

claims that he had joined at the place of transfer on 20.11.2019 whereas the respondents submit that in between 30.10.2019 and 20.11.2019 a deliberate subordination was committed by non-joining and it is contended that despite existing instructions at paddy procurement Centre the petitioner avoided to join at the place of transfer and loss was caused. Therefore, it is a factual dispute which both the parties have alleged pursuant thereto be disciplinary action is contemplated.

7. Section 55 (2) of the Chhattisgarh Co-operative Societies Act, 1960 reads as under:-

“55. Registrar's power to determine conditions of employment in societies.-(2) Where a dispute, including a dispute regarding terms of employment working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and its employees:

Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of order sought to be impugned:

Provided further that in computing the period of limitation under the foregoing proviso, the time requisite for obtaining copy of the order shall be excluded.”

8. The plain reading of Section 55(2) of the Act would show that the dispute would include the disciplinary action taken by the Society and the person aggrieved may approach to the Assistant Registrar to

decide the said dispute. Further, Section 64 of the Act also takes within its sweep the dispute to be adjudicated.

9. Prima facie, the charge-sheet has been issued on 20.02.2020 and almost four months have passed. Therefore, considering the contention of the petitioner alone, it appears that it is an entire factual dispute which needs evidence of parties. Further, as there is an alternate statutory remedy available to the petitioner, I am not inclined to admit this writ petition.

10. Accordingly, the present writ petition stands dismissed.

Sd/-

(Goutam Bhaduri)
Judge

Vishakha