

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2506 of 2020**

- Rangilal Dewangan S/o Kheduram Dewangan Aged About 54 Years Presently Posted And Working As Assistant Grade II, In The Office Of Sub Tahsil Kapu, Dharamjaigarh, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur, Chhattisgarh
2. Collector Raigarh, District Raigarh, Chhattisgarh
3. Sub Divisional Officer (Revenue) Dharamjaigarh, District Raigarh, Chhattisgarh
4. Nand Kumar Choubey Sub Divisional Officer (Revenue), Dharamjaigarh, District Raigarh, Chhattisgarh
5. Tahsildar Dharamjaigarh, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner : Shri B.D. Guru, Advocate

For Respondents/State : Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****30/06/2020**

1. Heard.
2. Challenge in this petition is to the letter dated 02.06.2020 (Annexure P-1), whereby the respondent No.2 has sought explanation from the petitioner.
3. Learned counsel for the petitioner would submit that the show-cause notice has been issued to the petitioner with a premeditated mind and

prejudice, wherein already a certain preliminary enquiry has been referred to and the copy has not been supplied and in such preliminary enquiry, it has been found that the petitioner is already guilty, therefore, conducting any further departmental enquiry would be biased. He would further submit that the petitioner has been inculpated in the false case for the reason that he has made a report against the SDO vide Annexure P-2 on 07.03.2019, therefore, on the basis of that the preliminary enquiry has been made on the fabricated grounds. He would therefore, submit that the enquiry Annexure P-1 requires to be quashed.

4. Per contra, learned State counsel submits that the basis on which the show-cause notice was narrated and has been issued on the principle laid down by the Supreme Court. He would further submit that the petitioner at least would be made known of the fact to which he is to reply, therefore, the background was narrated. He would further submit that to reply the show-cause notice, the issues are still open and the petitioner can very well reply to the notice and may canvas his defence before the authorities. Reference is made to the judgment passed by the Supreme Court in the case of ***Gorkha Security Services Versus Government (NCT of Delhi) and others {(2014) 9 SCC 105}*** wherein the Supreme Court at para 22 has held thus:-

“22. The High Court has simply stated that the purpose of show-cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To

put it otherwise, we are of the opinion that in order to fulfill the requirements of principles of natural justice, a show cause notice should meet the following two requirements viz:

(i) The material/ grounds to be stated which according to the department necessitates an action;

(ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can be clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.”

5. I have heard learned counsel for the parties and perused the documents.
6. As against Annexure P-1, the petitioner contended that the copy of the preliminary enquiry has not been supplied and therefore, there is a prejudice and the same is premeditated. Reading of the Annexure P-1 in entirety would show that the petitioner has been given the liberty to plead his defence and reply to the show-cause. The petitioner would be within his right to do so and because of the fact certain preliminary enquiry has been stated to have been done in the first part of the Annexure P-1 and accordingly it is stated in show-cause notice. The said factual disclosure would be in consonance with the principle as laid down by the Supreme Court. At this stage presumption cannot be drawn that the departmental enquiry would cause prejudice to the petitioner. Since it has been contended that the copy of the preliminary enquiry report has not been given, it is directed that the preliminary enquiry report be supplied to the petitioner so that while replying the Annexure P-1, he can take all the defence which are available to him so that the proper reply can be filed.

7. It goes without saying that the departmental enquiry if held, the proper opportunity of hearing should be given to the petitioner coupled with the fact that all the relevant documents should be supplied. At this stage, quashing the Annexure P-1 would amount to strangle the contemplated enquiry to nip in the bud which cannot be done in exercise of power under Article 226 of the Constitution of India as it is the right of the employer to conduct the enquiry if the circumstances warrant so.
8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu