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HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 350 of 2020**

(Arising out of the order dated 19.08.2020 passed by the learned
Single Judge in WPS No.3231/2020)

- Raja Jagat S/o Late Shri S.V. Jagat, aged about 33 years, R/o Village Madan, Post, Police Station and Tahsil Pali, District Korba Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through its Secretary, Department of Home/Police, Mahanadi Bhawan, Mantralay, Police Station and Post Rakhi, Atal Nagar, New Raipur, District Raipur (CG)
2. Director General of Police (D.G.P.) Police Headquarters (PHQ), Near Mahanadi Mantralay, Police Station and Post Rakhi, Atal Nagar, New Raipur, District Raipur (CG)
3. Inspector General of Police (I.G.P.), Office of Inspector General of Police (I.G.P.), Near Nehru Chowk, Bilaspur, District Bilaspur.
4. Superintendent of Police (S.P.) Office of Superintendent of Police (S.P.), Korba, District Korba (CG)
5. Enquiry Officer, Deputy Superintendent of Police (D.S.P.), Headquarters, Office of Superintendent of Police, Korba, District Korba (CG)
6. Presenting Officer, Station House Officer (SHO), AJK Thana, Korba District Korba (CG)

---- Respondents

For Appellant	:	Mr. Abhishek Pandey, Advocate
For Respondents	:	Mr. Sudeep Agrawal, Dy. Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board**Per Parth Prateem Sahu, J****16/09/2020**

1. The correctness and sustainability of the order dated 19.8.2020 passed by the learned Single Judge in WPS No.3231/2020 is put to challenge in this appeal on the ground that the learned

Single Judge erred in holding that at this stage writ petition filed by petitioner/appellant is premature.

2. Mr. Abhishek Pandey, learned counsel appearing for the petitioner/ appellant submits that pursuant to initiation of departmental proceeding against the petitioner/appellant under the Chhattisgarh Police Regulations, 1861, the Enquiry Officer and the Presenting Officer were appointed for conducting enquiry. However, in the course of enquiry the Enquiry Officer has acted as a 'prosecutor' and asked leading questions to the witnesses, which was prejudicial to the interest of the petitioner/appellant. He submits that it is settled law that if the Enquiry Officer acts as a 'prosecutor' and puts leading questions, the enquiry gets vitiated. Therefore, the entire enquiry conducted by the Enquiry Officer was vitiated.
3. Per contra, Mr. Sudeep Agrawal, learned Deputy Advocate General representing the State, submits that the enquiry initiated against the petitioner/appellant has been concluded and the Enquiry Officer has submitted the enquiry report before the Disciplinary Authority, who, in turn, issued letter to the petitioner/appellant calling upon him to submit his explanation/representation on the enquiry report, but the petitioner has not submitted any explanation/representation. He submits that grievance projected by the petitioner/appellant in this writ appeal can very well be considered by the Disciplinary Authority as it has authority to examine as to whether enquiry report submitted by the Enquiry Officer is in accordance with

law or not. He submits that in the given facts and circumstances of the case, the learned Single Judge has rightly held that at this stage the writ petition is pre-mature.

4. We have heard learned counsel for the parties.
5. It is not disputed by learned counsel for petitioner/appellant that after conducting enquiry, the Enquiry Officer has submitted the report before the Disciplinary Authority, who, in turn, issued a notice/ letter to the appellant calling upon him to submit his explanation / representation on the enquiry report. Learned Single Judge while disposing of writ petition has given following reasoning;-

“4. In response to the submission made by learned State counsel, learned counsel for the petitioner would submit that the petitioner has not suppressed anything and the present petition having been filed on 04th of August, 2020 and the very enquiry report is under challenge.

5. After consideration of the arguments advanced by learned counsel for the parties, since the petitioner at this stage challenged the enquiry report, the petitioner has already been granted opportunity and time to submit objection before the disciplinary authority by letter dated 06.07.2020 (Annexure P-11). The submission made by the State that subsequently two letters have already been issued to file reply and the last letter was issued on 18.08.2020, whereby the petitioner was asked to file the reply. If the petitioner is aggrieved by the report of the enquiry officer, the same may be raised before the disciplinary authority. Consequently, at this stage, this petition is premature. The petitioner is at liberty to raise all the grievance before the disciplinary authority as was asked by the letter dated 06.07.2020 and subsequent letters, the petitioner if thereafter is aggrieved shall have all the right to challenge the same before the appropriate forum.”

6. Taking into consideration overall facts and circumstances of the case, particularly Para-4 of impugned order that enquiry report is put to challenge on the grounds raised in writ petition, the submission of learned counsel for appellant could not be accepted. Once the Enquiry Officer concludes the enquiry and submits the report before the Disciplinary Authority, who is having authority to pass appropriate orders on enquiry report, we are of the considered view that the learned Single Judge has rightly held that the writ petition, at this stage, is premature. The grounds urged by petitioner/appellant in writ petition as well before this Court can very well be considered by the Disciplinary Authority, who is competent to pass appropriate orders in accordance with law. Considering the case at this stage will amount to usurping the jurisdiction of the Disciplinary Authority.

7. For the foregoing reasons, we do not find any infirmity in the order impugned passed by the learned Single Judge warranting interference in exercise of appellate jurisdiction. The writ appeal fails and stands dismissed. However, the appellant will be at liberty to avail the leeway granted by the learned Single Judge in the order impugned.

Sd/-
(P. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Roshan/-