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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4464 of 2020**

Nohar Singh Thakur S/o Late Shri Gautam Singh Thakur, Aged About 40 Years, R/o Shri Ram Plot No. 70, Zone 1, Street -1, Borsi Road, New Adarsh Nagar, Durg, District Durg, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax (Excise) Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh
2. Chhattisgarh State Marketing Corporation Limited, Raipur, Chhattisgarh Through Its General Manager, Abkaari Bhavan, Labhandi, Raipur, Chhattisgarh
3. Animesh Netam, Assistant Commissioner (Excise), Chhattisgarh State Marketing Corporation, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ishan Verma, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19.11.2020**

1. The primary challenge in the present writ petition is to the charge-sheet dated 29.08.2020 and the non-consideration of the response to the show-cause notice that the petitioner had filed in the light of the observations made by the Division Bench of this Court in Writ Appeal No.37/2020.
2. The present is a second round of litigation. The petitioner had

approached this Court on an earlier occasion when he was served with a show cause notice on 01.06.2019. This Court at that point of time dismissed the writ petition holding that this Court in exercise of its extraordinary powers under Article 226 of the Constitution of India would not subject a show cause notice to judicial review when the petitioner has all the right reserved for responding to the show-cause notice and the authorities concerned would be deciding the same on its merits.

3. Subsequently, the said judgment of this Court dated 24.07.2020 passed in WPS No. 5417/2019 has also been affirmed by the Division Bench in Writ Appeal No. 37 of 2020 decided on 29.01.2020. Subsequently, the petitioner is said to have submitted his response to the authorities and thereafter, the authorities have now issued a charge-sheet which is under challenge in the present writ petition.
4. The main contention that the petitioner has raised to challenge the charge sheet on the ground that the authorities have not considered the response given by the petitioner, to the show cause notice.
5. This Court still is of the opinion that the present writ petition also at this juncture is only at the charge sheet stage, hence for the same reason the present Writ Petition would not be sustainable as the petitioner has still a right to respond to the charge-sheet and the reply to the charge-sheet has to be considered by the authorities concerned before proceeding with the disciplinary proceedings if at all they want. It is not for the High Court to interfere at every stage of a disciplinary proceedings exercising its extra ordinary writ jurisdiction, which has to be seldom used, only in rare and exceptional cases.

6. While dismissing the earlier round of writ petition, this Court had relied upon the judgment of the Hon'ble Supreme Court in the case of Union of India Vs. Kunisetty Satyanarayana, 2006 (12) SCC 28 wherein paragraphs 15 & 16 it has been held as under:

“15. Writ jurisdiction is discretionary jurisdiction and hence, such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.”

16. No doubt, in some very rare exceptional cases the High Court can quash a Charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

7. The said judgment in the case of Kunisetty (supra) was further reiterated by the Supreme Court in the case of Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha, 2012 (11) SCC 565 wherein paragraphs 10 & 12 it has been held as under:

“11. Ordinarily a writ application does not lie against a charge-sheet 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 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. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.”

8. In view of the aforesaid authoritative judicial pronouncements by the Hon'ble Supreme Court which has also been laid down by this High Court in many judgments, this Court does not find any strong case made out by the petitioner calling for an interference with the disciplinary proceedings at the charge-sheet stage.
9. At this juncture, learned counsel for the petitioner submits that the petitioner till date has not filed response to the charge-sheet.
10. Given the said fact, let the petitioner immediately respond the charge-sheet by submitting a detailed reply to the disciplinary authority and in the event the petitioner submits reply to the charge-sheet, it is expected that the Disciplinary Authority shall consider the same before

proceeding further with the disciplinary proceedings.

11. With the aforesaid observation, the writ petition stands dismissed.

**Sd/-
P. Sam Koshy
Judge**