

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 50 of 2020**

Ramkyash S/o Shri Balkrishna Aged About 50 Years R/o Quarter No. M. D. 779-D, Deepka Colony, Post Office Gevra, District Korba, Chhattisgarh. ---
Petitioner

Versus

1. South Eastern Coalfields Limited through Chairman - Cum - Managing Director, South Eastern Coalfields Limited, Seepat Road, Police Station - Sarkanda, District - Bilaspur Chhattisgarh.
2. General Manager (Mining), South Eastern Coalfields Limited, Gevra Project, District - Korba Chhattisgarh.
3. The Deputy General Manager (M) / Colliery Manager, South Eastern Coalfields Limited, Gevra Project, District - Korba Chhattisgarh.
4. Vinod Kumar Sinha, the Deputy General Manager, South Eastern Coalfields Limited, Gevra Project, District - Korba Chhattisgarh.
5. R. K. Mishra, Inquiry Officer, South Eastern Coalfields Limited, Gevra Project, District - Korba Chhattisgarh. --- **Respondents**

WPS No. 10618 of 2019

Ramkyash S/o Shri Balkrishna Aged About 50 Years R/o Quarter No. M.D. 779-D, Deepka Colony, Post Office Gevra, District Korba, Chhattisgarh. ----
Petitioner

Versus

1. South Eastern Coalfields Limited through Chairman-Cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Police Station Sarkanda, District Bilaspur, Chhattisgarh.
2. General Manager (Mining) South Eastern Coalfields Limited, Gevra Project, District Korba, District : Korba, Chhattisgarh
3. The Deputy General Manager (M)/ Colliery Manager South Eastern Coalfield Limited, Gevra Project, District Korba, Chhattisgarh. ---
Respondents

For the Petitioner : Mr. Gary Mukhopadhyay, Advocate

For the State/Respondents : Mr. Vaibhav Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****10-01-2020**

1. The back ground of these cases is that initially a charge sheet was served to the petitioner on 01.08.2016, which was subject of challenge in WPS No.6450 of 2016 wherein this Court by order dated 30.10.2017 has set aside the said charge sheet while deciding the bunch matters. Subsequently, the petitioner was served with a charge sheet on 17.02.2018, which was also subject of challenge in WPS No.5822 of 2018 wherein this Court on 06.09.2018 observed that the rules of natural justice shall be followed by the Enquiry Officer as also by the Presenting Officer in the course of enquiry. Again, since the allegation were made in WPS No.7468/2018 that the documents are not being supplied or rules of natural justices have not been followed, this Court by order dated 14.11.2018 directed that the petitioner herein should be supplied with all those documents and list of witnesses which the respondents would be relying upon in the course of departmental enquiry. The enquiry thereafter was proceeded and according to the petitioner, since the rules of natural justice were not followed again a petition was filed bearing WPS No.10618/2019 wherein this Court on 13.12.2019 observed as under :

“A perusal of the documents annexed to the charge sheet would show that the respondents have stated that during the course of enquiry, certain documents would be produced and the witnesses shall also be produced as and when necessity arises. As per the reliance placed by the petitioner in a case law reported in (2015) 8 SCC 461, the principles of natural justice are requires to be followed.

Since apparently it appears that the natural justice has been given go-bye and the right has been reserved as a surprise to produce certain documents during the course of enquiry unless and until opportunity is given to the petitioner to go through the documents, departmental enquiry cannot be proceeded. Therefore,

under the facts and circumstances of the case, the proceeding of the departmental enquiry shall remain stayed till the reply is filed.”

2. Subsequently, WPS No.50/2020 has been preferred on the averment that despite there has been a stay, the departmental enquiry was concluded and second show cause notice was issued on 20th December 2019 vide Annexure P-7 wherein the petitioner was asked to submit reply to second show cause.
3. Learned counsel for the petitioner would submit that despite the order of stay by this Court, the respondent authorities have proceeded to enquire and the enquiry was completed and the second show cause notice was issued whereby all rules of natural justice were defeated. He further submits that the enquiry report would also show that no fact has been recorded as to what has actually transpired in the enquiry and no witnesses were examined, which would be evident from report whereby bias was caused.
4. Perused the earlier orders. In the different set of litigation, 5 litigations have been generated. The Court by orders time and again reminded the respondent to adhere to the rules of natural justice during the enquiry by supplying the documents. While this matter was taken up for hearing, learned counsel for respondents would submit that they are ready to fore-go the second show cause/enquiry report and conduct the enquiry de-novo from the charge sheet and shall also supply the documents, which the petitioner would be free to call for. The back-ground of this case would show that eventually the wisdom prevailed and fair submission has been made by counsel appearing on behalf of the respondents. The number of litigations, which have been generated for the same cause at the behest of respondents disturb the conscience of the Court and despite the orders passed by the Court time and again, it appears that where the relaxations

were made to follow the rules of natural justice, they have been given a go-bye earlier. Primarily the conduct of the respondents sounds in contempt. However, since fairly it has been submitted by the respondents, at this stage, this Court is not inclined to issue notice of contempt.

5. In view of the submission made, it is directed that the show cause notice (Annexure P-7) shall stand quashed. As the submission is made on behalf of the respondents that they shall hold the enquiry *de novo*, it goes without saying that during the course of enquiry the rules of natural justice shall be followed by providing the documents giving the names of witnesses which are fairly required to defend the case of a person.
6. In the facts and circumstances of the case, this Court was inclined to impose the cost. However, since the request has been made by the respondents' counsel that in future course, the same action shall not be repeated, the Court is not inclined to impose cost at this stage. The Respondents/SECL shall be free to take a suitable action against any erroneous employee/officer, if so advised.
7. With such observation/direction, both the petitions are disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**