

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 10885 of 2019**

- Basant Kumar Mahilange S/o Shri Balaram Mahilange, Aged About 27 Years R/o. Village Dhurwakari, Post And PS Pachpedhi, Tahsil Masturi, District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Dept. Of Forest, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh
2. Deputy Director Achanakmar Tiger Reserve, Lormi, District Mungeli Chhattisgarh
3. Cg Board Of Secondary Education Through The Secretary, Bairan Bazar, Pension, Bada, Police Station Civil Lines, Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri N. Naha Roy, Advocate
For Respondents/State	:	Shri Soumya Rai, PL
For Respondent No.3	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****06/01/2020**

1. Heard.
2. The present petition is against the notice dated 07.12.2019 (Annexure P-1) issued to the petitioner by the State.
3. Learned counsel for the petitioner would submit that the petitioner has passed out his Higher Secondary Examination from the Board of School & Technical Education (C.G.) in the year 2014. He would further submit that the temporary affiliation

was granted to the said Board by the Chhattisgarh Board of Secondary Education. Subsequently, the affiliation was suspended, which led to filing of different petitions and the Division Bench of this Court in WPC No.604 of 2014 on 14.11.2014 has passed the following order:-

“9. We therefore, now pass the following order:-

- (A) The respondents shall give a proper show cause notice to the petitioner institution stating the grounds why they were of the opinion that the order dated 7-11-2012 was contrary to law. The latter must answer the queries raised by the authorities within the time provided for the same or any other extended period that the respondents may allow.
- (B) If such reply is not filed within the time granted or such extended period of time the respondent may pass reasoned and speaking orders to their satisfaction ex-parte.
- (C) If reply is filed by the petitioner institution within time granted and it requests for a personal hearing also, it shall be granted to them.
- (D) The State authorities shall then take a final decision expeditiously within a period of 3 months from the date of filing of such reply by the petitioner institution and grant of personal hearing. If the order is to the prejudice of the petitioner institution it must be reasoned and speaking in nature.
- (E) Pending such enquiry and final orders by the respondents the students who have obtained their qualification of Class 10 and 10+2 at a time when valid temporary equivalence subsisted before suspension shall not be disturbed in any manner by the State authorities in pursuing higher academics in their present institutions and appear in the examinations. Any consequential action by the respondents pursuant to the order dated 11-3-2014 stands nullified at this stage.

This order has been passed in presence of counsel for the parties.”

4. It is further contended that thereafter the Board of Secondary Education has clarified by the letter dated 09.12.2016 that the final suspension of the affiliation dated 07.03.2015 would not govern the persons who have passed out prior to it. Consequently, the petitioner who has passed on 25.02.2015 the certificate obtained by him cannot be put to question. He further submits that under the circumstances, the petitioner has been served with the show-cause notice though it is a show-cause notice, however, after application of mind has been served on 07.12.2019, whereby the same issue is being questioned. Consequently, the notice Annexure P-1 which is issued is required to be quashed.
5. Per contra, learned counsel for the respondents vehemently opposed the arguments advanced by learned counsel for the petitioner and would submit that it is only a show-cause notice and the petitioner can very well go and file his reply and put forth his case.
6. I have heard learned counsel for the parties and perused the documents.
7. Perusal of the document Annexure P-1, which is under challenge would show that the petitioner has been given a notice that within 7 days he may file reply. In absence of any reply being filed, his

services would be terminated. Therefore, at this moment, the petitioner can very well agitate his case and convince the respondent that he is holding a valid certificate and the necessary documents can also be filed. If the petitioner chooses not to file or contest the show-cause it is his choice. Since it is a trite law that against the show-cause notice unless it is predetermined normally the interference of the Court is not called for. At this moment taking into the document, it cannot be finally presumed that the authority who has issued the show-cause notice is predetermined to terminate the services of the petitioner.

8. The petition is, therefore, premature it is accordingly dismissed.

Sd/-

Goutam Bhaduri
Judge