

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.(S) No. 18 of 2020**

Premanand Gavel, S/o. Shri Rampal Singh Gavel, Aged About 56 Years,
R/o. Principal Government I.T.I., District Baloda Bazar- Bhatapara,
Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Skill Development, Department Of Technical Education And Employment, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur, Chhattisgarh.
2. The Director, Employment And Training (Training) Indrawati Bhawan, 1st Floor, Block 04, Atal Nagar Naya Raipur, District Raipur Chhattisgarh.
3. The Deputy Secretary, State Of Chhattisgarh, Skill Development, Department Of Technical Education And Employment, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
4. The Public Information Officer And Under Secretary, Skill Development, Technical Education And Employment Department Mantralaya, AD-1/40 Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
5. The First Appellate Authority And Deputy Secretary, Skill Development, Technical Education And Employment Department Mantralaya, SO-31, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
6. The Department Enquiry Commissioner, Chhattisgarh (Retired Now On Contract), D.K.S. Bhawan, Mahanadi Khand Raipur, District Raipur Chhattisgarh.
7. The Principal Industrial Training Institute, Mana Camp, Raipur, District Raipur Chhattisgarh.

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For Petitioner	:	Mr. Uttam Pandey, Advocate
For State	:	Ms. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board**

09.01.2020

Heard

1. The challenge in this petition is to the Departmental Enquiry, which is proposed against the petitioner.
2. Learned counsel for the petitioner submits that the petitioner who was holding the additional charge of the Joint Director, Training, in September 2016 to July 2019, the misconduct though was attributed initially in May

2018 that was dropped due to insufficient material. Subsequently, in July 2018 again the D.E. was proposed which was also dropped and the petitioner thereafter sought for the document on which certain allegations were made under the R.T.I. however, the same was refused by Annexure P-2 on the ground that since it leads to prosecution and investigation, as such, the information sought for cannot be supplied. Subsequently, the D.E. has been commenced again in Jan 2019 wherein no document was supplied, however, the reply was filed subsequently. It is contended that as per Rule 14(3) of the Civil Services (Classification, Control & Appeal) Rules, 1996 the word “disciplinary authority” has been used in sub-section 3 who is competent to issue the charge sheet whereas the charge sheet has been issued by the Deputy Secretary who is not a disciplinary authority. He further submits that no document has been supplied and opportunity of hearing has also not been granted; therefore, the D.E. requires to be annulled.

3. State counsel opposes the same.
4. There is nothing on record to prove that the Deputy Secretary is not the competent authority. The query having been made to the petitioner that who is the disciplinary authority, it is contended that as per the knowledge of the petitioner the Deputy Secretary is not the disciplinary authority. Therefore as appears for want of particulars the said contention of petitioner cannot be adjudicated upon at this stage. The petitioner further has alleged that during the enquiry certain documents though were relied on, however, the same was not supplied. Taking into averments made in the petition, which is supported by an affidavit that it is alleged that documents relied on by the State has not been supplied in D.E. and petitioner is not given the opportunity to cross-examine the witness, the State is directed to supply the document which is relied upon by the State during the enquiry and to provide opportunity of hearing to the petitioner

and allow him to cross-examine the witness, if it has not been availed or refused. The said condition would be applied only in case where the petitioner has not been given the opportunity, if the petitioner has voluntary not cooperated during the enquiry then the aforesaid direction shall not be available, the result would be decided as and when the Departmental Enquiry report are tabled or adjudicated. Therefore, at this stage, I do not find any reason to keep the petition pending.

5. With the aforesaid observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Ashok