

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 11935 of 2020 (O&M)

Date of decision : 17.8.2020

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Suraj Bhan

.....Petitioner

vs.

State of Haryana through Additional Chief
Secretary to Government of Haryana, Development
and Panchayat Department, Haryana Civil Secretariat,
Chandigarh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Madan Pal, Advocate
for the petitioner.

Mr. Tanuj Sharma, Assistant Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This writ petition under Articles 226/227 of the Constitution of India, has been filed by petitioner Suraj Bhan, aged about 57 years, working as Deputy CEO, Zila Parshad, Hisar, seeking quashing of impugned order in the form of recommendation dated 29.1.2020, by Lokayukta, Haryana, Chandigarh, recommending initiation of departmental action under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016, apart from criminal

action and suspension, as well as letter dated 23.6.2020, issued by Deputy Commissioner, Charkhi Dadri, Haryana, for further action.

The petitioner is craving for quashing of that impugned order/recommendation dated 29.1.2020 and letter dated 23.6.2020 passed by Lokayukta, Haryana, Chandigarh – respondent No.3 and Deputy Commissioner, Charkhi Dadri, Haryana – respondent No.4, respectively.

At the very outset, it has to be seen as to whether the writ petition under the circumstances, is maintainable or not. The answer has to be in negative. The recommendation made by Lokayukta, Haryana, Chandigarh, can certainly be not termed as without jurisdiction or arbitrary or in violation of Rules/Regulations. It is for the appointing /disciplinary authority of the petitioner to take further action in the matter. Needless to say, an employer has got a right to probe the allegations of misconduct against its employee and then take civil, criminal or disciplinary action or all the actions together. Similarly, the allegations of misconduct can certainly be got enquired into at departmental level. Under the service rules and rules of natural justice, the petitioner would get an opportunity to file response to such allegations and give his version. If the same is found to be satisfactory, the disciplinary authority may drop the proceedings. However, if it is not so, then the matter can be further enquired into and if misconduct is established, then suitable punishment can be awarded. There is settled procedure for doing that. The petitioner can certainly not rush to this Court, challenging the recommendation

made by Lokayukta, Haryana, Chandigarh, trying to preempt the action to be taken up at departmental level against him. If the petitioner has not done anything wrong, then he need not fear and should give his version to the disciplinary authority. If the same is accepted as correct and convincing, further action in the matter may not be taken, but the petitioner cannot stall the disciplinary action against him in such a manner. Furthermore, if no criminal offence is found to be disclosed against him, the law enforcement agency, may not book him for criminal offences. However, if some offence(s) is/are disclosed then the matter can be investigated and further action taken.

This writ petition filed in anticipation of the probe and criminal action is clearly pre-mature. No fundamental right of the petitioner appears to have been violated, which might have given rise to a cause of action to him to approach this Court, asking it to invoke the writ jurisdiction in his favour. As such the present writ petition is not maintainable and is dismissed accordingly.

17.8.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No