

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-11692-2020

Date of decision:-11.8.2020

Indu Bala

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sunil Kumar Nehra, Advocate
for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

Petitioner – Smt.Indu Bala working as a JBT Teacher in the State of Haryana has filed the instant civil writ petition under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing impugned charge-sheet dated 23.6.2020, impugned notice/order dated 17.7.2020 and impugned communication dated 28.7.2020 being in violation of the Haryana Civil Services (Punishment & Appeal) Rules, 2016.

Inter alia, in the petition the petitioner has contended that she belongs to Jangra (Khati) community, which falls under Backward Class

A Category; she got married with Ajit Pal Singh on 24.12.1999, who belongs to the scheduled caste; thereafter she got a Scheduled Caste Certificate issued on 27.9.2004 in her name from Tehsildar, Thanesar; in response to the advertisement issued by Haryana Staff Selection Commission, the petitioner had applied for the post of JBT teacher under the Scheduled Caste Category; she was selected and appointed as such vide letter dated 28.8.2008; she was confirmed on that post w.e.f. 1.1.2013 vide order dated 18.2.2014 passed by District Elementary Education Officer, Kurukshetra; mother-in-law of the petitioner Smt. Daya Kaur (since dead) had filed a suit against the petitioner levelling allegations that the latter had obtained a false and fabricated scheduled caste certificate, however that suit ended into compromise and was withdrawn by Smt. Daya Kaur, plaintiff in that case; however District Elementary Education Officer, Kurukshetra had issued charge-sheet dated 23.6.2020 to the petitioner mentioning that selection of petitioner had been made on the basis of certificate of scheduled caste issued by Naib Tehsildar, Thanesar on 27.9.2004 and vide order dated 22.5.2019, such certificate has been cancelled and because the petitioner had obtained appointment for the post of JBT teacher on the basis of a fake certificate, she was being served with a charge-sheet. According to the petitioner, no notice was issued to the petitioner prior to cancellation of the scheduled caste certificate by the office of Tehsildar, Thanesar; the charge-sheet served upon the petitioner as well as notice/order dated 17.7.2020 and communication dated 28.7.2020 are illegal, null and void. Therefore, the same be set aside.

I have heard learned counsel for the petitioner besides going through the record and I find that the present writ petition is not maintainable being pre-mature. The respondent No.3 - District Elementary Education Officer, Kurukshetra has served a charge-sheet upon the petitioner on the allegations that she had obtained post of JBT teacher under scheduled caste category on strength of a certificate, which was fake and since been cancelled by Tehsildar, Thanesar vide letter dated 22.5.2019. The petitioner has been asked to reply to the charge-sheet within 15 days from the receipt of charge-sheet. Admittedly, the petitioner has not filed any reply to the charge-sheet. An employer has got a right to look into the allegations of misconduct against his employee and if some misconduct comes to notice of the employer, then the employee can be asked to give his/her version and explanation in the matter. There is nothing wrong in District Elementary Education Officer, Kurukshetra serving charge-sheet upon the petitioner. The petitioner is expected to file reply to the charge-sheet giving her version, which can then be considered and if the disciplinary authority feels satisfied by the reply given by the employee, then the proceedings can be dropped there and then, otherwise the allegations of misconduct can be got inquired into by ordering a departmental inquiry. Though in notice Annexure P6, while narrating the allegations and mentioning that the charge-sheet had been issued to the petitioner asking her to file reply within 15 days of receipt of the charge-sheet, it has been mentioned that if it is not produced in time, her services shall be terminated but then after this notice dated 17.7.2020 (Annexure P6), another order dated 28.7.2020, copy Annexure P7 has been passed

mentioning that the petitioner had not filed reply to the charge-sheet within 15 days as directed and she had been granted further time of 15 days for filing suitable reply. In this order also, it is mentioned that in case reply is not filed, her services will be terminated.

Under the circumstances, the petitioner is first expected to file reply to the charge-sheet narrating her version. The respondents, if satisfied with the explanation rendered may drop the proceedings, otherwise necessary action in accordance with law and service rules may be taken. Of course, the respondents are not expected to act in an arbitrary manner against the rules and settled procedure while dealing with the matter in question.

Therefore, while dismissing the present petition as premature since no order affecting the service career of the petitioner has been passed by the respondents so far, it is expected that the action, if any, would be taken by respondents in accordance with law observing service rules applicable to the petitioner and rules of natural justice.

11.8.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No