

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-29992-2018 (O&M)
Date of Decision:-27.01.2020.

Dr. Abhishek Gupta

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Gaurav Mohunta and Mr. Gaurav Gogna,
Advocates for the petitioner.

Mr. Sunil Kumar Sharma, Senior Panel Counsel for the
Union of India.

SANJAY KUMAR, J. (Oral)

This writ petition was filed assailing a show-cause notice.

The petitioner is an employee of Sardar Swaran Singh National Institute of Bio-Energy, Wadalan Kalan, Kapurthala, Punjab. This organization is under the control of the Government of India. Memorandum dated 25.09.2018 (Annexure P-1) was issued by the Under Secretary, Ministry of New and Renewable Energy, Government of India, stating to the effect that several complaints had been received by the Ministry about the wrongful appointment of the petitioner, on the ground that he did not possess the essential qualification as prescribed under the relevant rules. The Under Secretary voiced the opinion that as a result, his appointment to the post of Administrative-cum-Accounts Officer in Sardar Swaran Singh National Institute of Bio-Energy would be rendered *void ab initio*. Having stated so,

the Under Secretary called upon the petitioner to explain within a time frame as to why his services should not be terminated on the ground that he did not possess the essential qualification. This show-cause notice was issued as per the Department of Personnel and Training's Office Memorandum dated 19.05.1993 and the law laid down by the Supreme Court.

It is well settled that challenge to a show-cause notice can be maintained only on limited grounds. No jurisdictional issue has been raised in this writ petition in that regard and the only point which was pressed into service by the petitioner was that the show-cause notice demonstrated that the authority had already made up its mind, inasmuch as a mention was made therein that the appointment of the petitioner was rendered *void ab initio*.

This Court is not inclined to accept such an interpretation of the opinion voiced in the show-cause notice. It is open to an authority, while issuing a show-cause notice, to indicate the grounds made out, *prima facie*, against the employee concerned that warranted issuance of such a notice. Such a *prima facie* opinion cannot be held to mean that the authority already made up its mind and that issuance of the show-cause notice was a mere formality. As already noted *supra*, the Under Secretary called upon the petitioner to explain as to why action should not be taken against him on the strength of the grounds cited. It was therefore for the petitioner to submit his response thereto along with supporting material, if any. This Court is informed that the petitioner submitted his reply to the show-cause notice but in the meanwhile, he also secured an interim order in this writ petition to the effect that *status quo* should be maintained with regard to his services. This Court is further informed that, based on the inquiry initiated pursuant to the

aforestated show-cause notice, a report has been submitted holding against the petitioner.

Be that as it may.

The irrefutable fact remains that the authorities are yet to take action against the petitioner on the strength of the impugned show-cause notice. As this Court does not find any grounds to interfere with the said show-cause notice and the authorities concerned are yet to take any action upon the inquiry report which emanated therefrom, no cause is made out for entertaining this writ petition at this stage or for its adjudication on merits.

The writ petition is accordingly dismissed on this short ground, leaving it open to the petitioner to seek redressal of his grievance, if any, after an actual cause of action arises. The interim order of *status quo* shall stand vacated.

Pending miscellaneous applications shall also stand dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

January 27, 2020.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.