

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 491 of 2021

1. Dr. Chandra Bhusan Sharma S/o- Gopal Prasad Singh Aged About 53 Years Assistant Professor Of Commerce, Govt. College, Barpali, District- Korba (Chhattisgarh).

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Higher Education, Mahanadi Bhawan Mantralay, Naya Raipur, District- Raipur (Chhattisgarh).
2. The Under Secretary The Dept. Of Higher Education, Mahanadi Bhawan, Naya Raipur, Dist.- Raipur (Chhattisgarh).
3. The Commissioner The Dept. Of Higher Education, Indravati Bhawan, Naya Raipur, Distt.- Raipur (Chhattisgarh).
4. The Principal Govt. College, Barpali, Dist.- Korba (Chhattisgarh).
5. Dr. Jyotirani Singh The Principal, J.P. Verma College Of Arts And Commerce, Dist.- Bilaspur (Chhattisgarh).

---Respondents

For Petitioner	:	Shri Y.C. Sharma and Shri Sachin Nidhi, Advocates.
For State	:	Smt. Hameeda Siddique, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01.02.2021.

1. The challenge in the present writ petition is to the enquiry report dated 18.03.2020 and show cause notice issued subsequently thereafter on 25.08.2020.
2. The facts of the case is that in the respondent establishment an alleged enquiry was ordered to be conducted against one Shri M.K. Yadav. The enquiry on conclusion an enquiry report dated 18.03.2020 was submitted. The enquiry officer after holding the said person Shri MK Yadav of having committed the offences and that the charges that were levelled against him stood proved and have suggested for appropriate action. However the enquiry officer has also made an observation in respect of the petitioner herein of some how trying to give protection to Shri MK Yadav

and for which the enquiry officer is said to have given a report recommending the transfer of the petitioner from the said establishment where he was presently working. Pursuant to the enquiry report dated 18.03.2020 the respondents thereafter have issued a show cause notice to the petitioner on 25.08.2020 calling upon an explanation of the petitioner also as to why disciplinary action should not be initiated against him.

3. The apprehension of the petitioner is that the respondents in all probability may punish the petitioner based upon the said enquiry report dated 18.03.2020 and it would amount to punishing the petitioner without an enquiry. According to the petitioner, the enquiry report submitted was exclusively in respect of the allegation and charges that were levelled against Shri MK Yadav. There is no allegation as such against the petitioner. Nor was any complaint at any point of time and that the report of the enquiry officer also is only a passing remark without there being any cogent strong proof of the petitioner in any manner supporting Shri MK Yadav as is being assumed by the authorities.
4. The State counsel, on the contrary, on the advance notice submits that a plain reading of the show cause notice dated 25.08.2020 would clearly reflect that it is only calling upon an explanation of the petitioner and if the petitioner is able to provide satisfactory explanation, he should not have any apprehension of being in any manner victimized. Moreover, since it is only a show cause notice, of course without saying that the respondent authorities would take all necessary steps in accordance to the Rules governing the field, based upon the reply that the petitioner shall be submitting.

5. The counsel for the petitioner submits that the petitioner meanwhile has already submitted the reply to the show cause notice, however, there is no further development.
6. Be that as at may, since it is only a show cause notice which is challenged at this juncture, this court in exercise of writ jurisdiction would not like to interfere with the proceedings drawn by the respondents exercising the power of judicial review. However, it is made clear that since it is only a show cause notice, the respondents are expected to proceed further with the proceedings only in accordance with the rules governing the field and the procedure prescribed. The respondents are expected of not taking any decision against the petitioner only based upon the enquiry report submitted in respect of the enquiry conducted against Shri MK Yadav. The allegations against the petitioner would have to be tested independently in accordance with rules prescribed and if required by holding an enquiry as regards the petitioner.
7. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge