

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1308 of 2021**

1. Jainsingh Diwan Son Of Raahen Diwan Aged About 48 Years Police Line, Gariyabandh, District Gariyabandh (Chhattisgarh),
2. Bhikham Sahu Son Of Lt. Shri Chaabi Lal Sahu Aged About 52 Years Thana- Gariyabandh, Police Station Campus, Thana- City Kotwali, Gariyabandh, District Gariyabandh (Chhattisgarh)
3. Ravi Kishore Saay Son Of Lt. Shri Dineshwar Saay Aged About 39 Years Police Line, Gariyabandh, District Gariyabandh (Chhattisgarh)
4. Vinod Singh Son Of Shri Raj Naarayan Singh Aged About 36 Years Police Line Rakshit Kendra, Gariyabandh, District- Gariyabandh (Chhattisgarh)
5. Likheshwar Bhuaarya Son Of Shri Jagdish Bhuaarya Aged About 35 Years Police Line, Gariyabandh, District Gariyabandh (Chhattisgarh)

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur (Chhattisgarh),
2. State Of Chhattisgarh Through The Director General Of Police (Phq), Nagar Nawa Raipur, District Raipur, District : Raipur, Chhattisgarh
3. Superintendent Of Police Gariyabandh, District- Gariyabandh (Chhattisgarh), District : Gariyabandh, Chhattisgarh
4. Station House Officer Police Station Chhura, District Gariyabandh (Chhattisgarh), District : Gariyabandh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. S. S. Rathore with Ms. Soni Mishra, Advocates
For State	:	Ms. Akansha Jain, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

15/03/2021

1. The grievance of the petitioner in the present writ petition the substantive initiation of the criminal case as also the disciplinary proceedings for the same cause of action.
2. The whole dispute in the present writ petition arose on the occurrence of a custodial death and a judicial enquiry ordered thereafter. According to the petitioner based on the judicial enquiry, the petitioners have been subjected to prosecution for the offence punishable under Section 306, 201 & 34 of the IPC. That subsequently the petitioners also have been issued with a charge sheet and departmental enquiry is also being initiated by the respondents for the same set of allegations and with the same set of witnesses. According to the petitioner in the event if the witnesses in the departmental enquiry are examined ahead of the evidence in the criminal case, the interest of the petitioner would get adversely affected and substantive defense of the petitioner would get prejudicial, therefore prays for pending the criminal case, the departmental enquiry should be kept pending.
3. Counsel for the petitioner relied upon the order passed by this Court in the case of **Sandip Kumar Singh Vs. Chhattisgarh Rajya Gramin Bank & Others passed in WPS 2377/2018** decided on 27.3.2018 and also in the case of **Balram Singh Thakur Vs. State of Chhattisgarh & Others, passed in WPS 5276/2020** decided on 15.12.2020.
4. State counsel on the other hand submits that from the proceedings it appears that many of the witnesses in the departmental enquiry have already been examined and it is only cross examination which is left and therefore no fruitful purpose would be served in staying the further proceedings of the departmental enquiry. Moreover, according to the State counsel there could also be a case where many of the witnesses in the

departmental enquiry may not be witness who are to be examined in the criminal case as witness.

5. Having heard the contentions put forth on either side and on perusal of record, taking into consideration that the charge sheet and contents of the allegations made in the charge sheet are in respect of the same incident for which the petitioners are being prosecuted for the offence punishable under Section 306, 201 & 34 of the IPC. In the event if the petitioners evidence is recorded at this juncture in the departmental enquiry, the defence of the petitioner in the criminal case would get disclosed and It would be have an adverse bearing on the outcome of the criminal case prejudicially to the interest of the petitioners.
6. The supreme Court time and again in the case of **Stanzen Toyotetsu India Private Limited Vs. Girish V. & Others, (2014) 3 SCC 636** so also in the case of **Divisional Controller, Karnataka State Road Transport Corporation Vs. M.G. Vittal Rao, 2012 1 SCC 442** & again also in the case of **Avinash Sadashiv Bhosle (Died) through LRs. vs. Union of India (2012) 13 SCC 142** and subsequently in the case of **State Bank of India & Ors. vs. Neelam Nag and Others, 2016 9 SCC 491** have held that when the issue involved in the criminal case as also in the disciplinary proceedings being on same set of facts and evidence, it would be more appropriate keeping the departmental enquiry stayed till the outcome of the criminal case. That the said stand has also been taken by this Court in the aforementioned two writ petitions i.e. WPS 2377/2018 & WPS 5276/2020 relied on by the petitioners.
7. In view of the same it is ordered that let the departmental enquiry initiated against the petitioners be kept in abeyance, as of now, till the final conclusion of the criminal case initiated against the petitioner for the offence punishable under Section 306, 201 & 34 of the IPC and

respondents would be at liberty to proceed further in accordance with law after the conclusion of the criminal case.

8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit