

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1590 of 2021**

Azad Mohammad Qureshi S/o Shri Shahjad Mohammad Qureshi, Aged About 56 Years, Presently Posted As A.S.I. (Telecommunication) At Police Telecommunication Zone Bilaspur, District - Bilaspur Chhattisgarh. R/o - Q.No. 09, Police Line, Bilaspur, District - Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home, Mantralaya Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
2. Director General Of Police, Police Headquarters, Raipur, District – Raipur, Chhattisgarh
3. Special Director General Of Police (Telecommunication) Raipur, District Raipur, Chhattisgarh
4. Assistant Inspector General Of Police (Telecom), Atal Nagar, New Raipur, District Raipur, Chhattisgarh
5. Superintendent Of Police (Telecom) Bilaspur Zone, District - Bilaspur
6. Inspector, (Telecommunication), Bilaspur Zone, District - Bilaspur, Chhattisgarh
7. State Of Madhya Pradesh Through Its Director, Police Radio Training School, District - Indore, (M.P.)
8. Deputy Superintendent Of Police (Radio) Training Police Radio Training School, State Of Madhya Pradesh, Indore, District - Indore, (M.P.)

---- Respondents

For Petitioner	:	Mr. Anadi Sharma, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate

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

26.03.2021

1. The challenge in the present writ petition is to the disciplinary proceeding initiating against the petitioner vide charge sheet dated 19.01.2021.
2. Counsel for the petitioner submits that he had submitted a detailed reply to the charge-sheet on 02.02.2021 and after which the authority concerned has ordered for holding a departmental enquiry and the Enquiry Officer has also been appointed.
3. Given the fact that the authorities have already taken a decision for conducting a departmental inquiry and a notice has already been issued by the Enquiry Officer, this Court is of the opinion that it would not be proper for this Court at this juncture to interfere with the disciplinary proceeding. In case the petitioner is able to provide cogent evidence before the Enquiry Officer, there is all likelihood of the report being prepared in accordance with the evidence that would be filed by the petitioner.
4. So far as the interference at charge-sheet level by the High Court under Article 226 of the Constitution of India is concerned, the law by now is well settled. The Hon'ble Supreme Court time and again has held that the High Court while exercising its power of judicial review would not sit as an appellate body over the decision of the Disciplinary Authority. The Supreme Court dealing with the same issue in the case of **State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya** reported in 2011 (4) SCC 584 in paragraph no.7 held as under:

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will

not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (vide B. C. Chaturvedi - Versus- Union of India – 1995 (6) SCC 749, Union of India vs. G. Gunayuthan – 1997 (7) SCC 463, and Bank of India -Versus- Degala Suryanarayana – 1999 (5) SCC 762, High Court of Judicature at Bombay vs. Shahsi Kant S Patil – 2001 (1) SCC 416).”

5. Given the said facts, the writ petition at this juncture stands disposed of with a direction to the respondents to ensure that the proceedings initiated against the petitioner shall be concluded in accordance with law after following the procedure prescribed under the rules governing the field and also after granting fair and reasonable opportunity of hearing to the petitioner in his defence.

**Sd/-
P. Sam Koshy
Judge**

Khatai