

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5231 of 2021

Manohar Patel S/o Ratthu Patel Aged About 41 Years R/o Kandurpali P/o Sarju Tahsil Baramkela District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education Mantralaya, Nava Raipur, Atal Nagar Chhattisgarh.
2. Chief Executive Officer Zila Panchayat, Raigarh Chhattisgarh.
3. Chief Executive Officer Janpad Panchayat Baramkela District Raigarh, Chhattisgarh (Enquiry Officer)
4. Assistant Internal Auditor And Taxation Officer Janpad Panchayat Baramkela, District Raigarh Chhattisgarh Presenting Officer.

---- Respondents

For Petitioner	:	Mr. Shantam Awasthi, Advocate
For State	:	Mr. Suyash Dhar, Panel Lawyer

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

20/09/2021

1. Aggrieved by the impugned second show cause notice Annexure P/1 dated 04.09.2021 the present writ petition has been filed. Vide the impugned notice the respondents have issued second show cause notice against the petitioner as to why the services of the petitioner be not dismissed for the alleged misconduct, which has been found to be proved in the departmental enquiry.
2. The ground of challenge is that the entire inquiry process has been initiated firstly ex parte and secondly without giving a fair opportunity of hearing and without appreciating the changing cause on account of which the petitioner could not appear in the departmental enquiry.

Further ground is that the entire inquiry has been proceeded in a very hasty manner with a predetermined approach.

3. All said and done, from the perusal of the pleadings it appears that the petitioner was initially served with a charge-sheet on 28.01.2021. The petitioner thereafter is said to have submitted his reply on 06.03.2021. Without properly appreciating the contents of the reply to the charge-sheet, the respondents have decided to proceed further by appointing an Inquiry Officer to inquire into the alleged misconduct.
4. Counsel for the petitioner submits that the Inquiry officer had called upon the petitioner on two occasions to cross examine the departmental witnesses. On both the occasions the petitioner on account of genuine bonafide reasons could not appear before the Inquiry officer for which he had also made an appropriate application to the Inquiry officer for grant of some more time. Without taking a decision on those applications, the Inquiry officer proceeded further with the inquiry attack and submitted his inquiry report, based upon which the impugned second show cause notice has been issued.
5. Given the fact that the Inquiry officer has concluded the inquiry and has submitted the inquiry report, the issuance of the second show cause notice is not an appropriate stage for this Court to exercise the writ jurisdiction under Article 226. The proper course of action for the petitioner is to submit his detailed submission to the show cause notice and thereafter the Disciplinary Authority should take an appropriate decision after due consideration of the contents of the said submission to be made by the petitioner.

6. In the instant case since the impugned show cause notice has been issued on 04.09.2021, in the event if the petitioner has not submitted his submission till date, let a fresh submission be submitted by the petitioner to the Disciplinary Authority within a further period of 7 days from today. The Disciplinary Authority in turn shall take a decision on the said charge-sheet of the petitioner on its own merits after due consideration and appreciation of the contentions that the petitioner shall raise in his submission to the show cause notice which if he has not filed till now, to be filed within a period of 7 days.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved