

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6118 of 2021**

- Leela Dhar Devanshi S/o Bhuneshwar Ram Devanshi Aged About 30 Years Posted As Constable No. 691 At Rakshit Kendra Gariyaband, R/o Behind Shani Temple Vrindavan, Aawas Para, Ward No-8, Gariyaband, District Gariyaband, Chhattisgarh, District : Gariyabandh, Chhattisgarh

---- Petitioner**Versus**

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

---- Respondents

For Petitioner	:	Shri Sumit Singh Rathore, Advocate
For State/Respondents	:	Shri Kunal Das, P.L., on advance copy

Single Bench: Hon'ble Shri Justice Sanjay S. Agrawal
Order On Board

09.11.2021

1. By way of this petition filed under Articles 226/227 of the Constitution of India, the Petitioner is praying for staying the Departmental proceedings till the final conclusion of the criminal case lodged against him.
2. According to the Petitioner, he was initially appointed as a Constable in the year 2013 and presently he was posted and working at Rakshit Kendra Gariyaband, District Gariyaband (CG) and while working as such, an F.I.R. was lodged on 05.05.2020 by Respondent No.4 against him before the Police Station Chhura, District Gariyaband in connection with Crime No.68/2020 for an offence punishable under Section 20-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'NDPS Act'). It is contented by the Petitioner that the alleged offence has been registered, as one of the co-

accused who was arrested by the concerned Police Officer, has stated in his memorandum statement that he purchased the cannabis from him. It is also contended that after investigating the matter, the concerned Police Officer has submitted his charge sheet before the Special Court under the NDPS Act at Raipur and, immediately thereafter, a Departmental Enquiry has also been initiated by the Respondents for the same set of allegations and with the same set of witnesses. Further contention of the Petitioner is that in the event, if the witnesses in the Departmental Enquiry are examined ahead of the evidence in the said criminal case, the interest of the Petitioner would get adversely affected and substantive defence of the Petitioner would get prejudicial, therefore, prays for staying the further proceedings of the Departmental Enquiry pending decision of the said criminal case.

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 of the Departmental Enquiry, it appears that many of the witnesses 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 and, therefore, the petition may be dismissed.

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 Petitioner is being prosecuted for the offence punishable under Section 20-B of the NDPS Act. Therefore, in the event, if the Petitioner's evidence is recorded at this juncture in the Departmental Enquiry, the defence of him in the

criminal case would get disclosed and it would have an adverse bearing on the outcome of the criminal case prejudicially to the interest of the Petitioner.

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 above settled principles of law, it is ordered that let the Departmental Enquiry initiated against the Petitioner be kept in abeyance, as of now, or till the final conclusion of the criminal case initiated against the Petitioner for the offence punishable under Section 20-B of the NDPS Act and, Respondents would be at liberty to proceed further in accordance with law after the conclusion of the said criminal case.

8. With the aforesaid observation, the Writ Petition stands disposed of.

Sd/-

(Sanjay S. Agrawal)
JUDGE