

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-2654-2021 (O&M)
Date of Decision: 10.02.2021**

Manisha

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Ms. Mamta Panwar, Advocate for the petitioner.

Mr. Sharan Sethi, Additional Advocate General, Haryana.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Matter has been taken up through Video Conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Challenge in the instant writ petition is to the order dated 28.01.2021 at Annexure P-4 in terms of which the petitioner while serving on the post of Accountant under the State Horticulture Department has been placed under suspension.

Counsel has argued that the petitioner has been victimized. It is further submitted that petitioner was having a matrimonial dispute with her husband since the last 13 years and litigation between the couple is going on. In the year 2015, private respondent No.5, Yogesh, who also was having a disturbed married life had enticed the petitioner and on the pretext of marriage, initiated physical relations. Thereafter, respondent No.5, who is also serving on the post of Accountant had been transferred out to Karnal and had snapped contact with the petitioner. This led to registration of FIR No.0021, dated 19.01.2021 at the hands of the petitioner against respondent No.5 for offence

under Sections 323/34/376/506 IPC at Police Station Sonapat Sadar.

It is argued that an incident took place on 19.01.2021 and which has been blown out of proportion. The District Horticulture Officer, Sonapat has forwarded a one sided story of the incident and recommended to the Director General, Horticulture, Haryana to suspend the petitioner.

Yet another submission raised by counsel is that in the suspension order at Annexure P-4, the Deputy Director, Horticulture CEV, Gharaunda has been appointed as an Inquiry Officer and has been directed to submit the inquiry report within 15 days. It is urged that such course of action cannot sustain as no charge sheet has been served upon the petitioner and no opportunity has been granted to the petitioner to explain her conduct in relation to the incident that had occurred on 19.01.2021. Without there being any formal article of charge having formulated and served upon the petitioner, an Inquiry Officer has been appointed which in itself would reflect that the respondent/authorities are proceeding without a pre-determined mind. It is contended that in such facts and circumstances, the order of suspension deserves to be set aside.

The instant writ petition had come up for preliminary hearing on 05.02.2021 and on that day, learned State counsel had been requested to complete instructions as regards the stage/status of the inquiry proceedings and as to whether any article of charge(s) has been formulated and conveyed to the petitioner prior to appointment of the Inquiry Officer.

During the course of resumed hearing, Mr. Sharan Sethi, Additional Advocate General, Haryana upon instructions from Mr. Parmod Bhardwaj, Legal Assistant, Department of Horticulture, State of Haryana informs the Court that the petitioner has merely been suspended and initiation

of a departmental inquiry is contemplated. State counsel further informs the Court that a final decision as regards initiation of departmental proceedings is yet to be taken. The recital in the order of suspension as regards the Deputy Director, Horticulture, CEV, Gharaunda, having been appointed as Inquiry Officer is only towards conduct of a preliminary fact finding report and on the basis of which a final decision as regards initiation of a departmental proceedings against the petitioner would be taken.

What clearly emerges is that petitioner has merely been placed under suspension to facilitate a preliminary inquiry as regards an alleged incident that took place on 19.01.2021 in which respondent No.5 Yogesh Kumar, Accountant, Office of Horticulture Training Institute, Uchani along with his mother had come present but at about 10:30 am, the petitioner had quarrelled with him as also his mother and has resorted to giving beatings and having used abusive language. Essentially, the matter that is being inquired into at the moment is with regard to the petitioner having allegedly breached office discipline.

Under the given circumstances, the impugned order of suspension cannot be construed as an order of punishment. Such action has been taken only to facilitate a preliminary fact finding inquiry to take place and thereafter for the competent authority to arrive at a conclusion as to whether formal departmental proceedings are to be initiated or not.

In the considered view of this Court, no intervention at this stage is warranted.

Writ petition is dismissed.

10.02.2021*harjeet***(TEJINDER SINGH DHINDSA)
JUDGE**

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |