

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(117) CM-194-CWP-2021 in/& CWP-21556-2020
Date of Decision: January 07, 2021

Wakeel Singh .. Petitioner

Versus

State of Punjab and others .. Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kamaldeep Singh Sidhu, Advocate, for applicant-petitioner.

Mr. Nikhil Chopra, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

CM-194-CWP-2021

Present application has been filed for staying the departmental proceeding during the pendency of the main writ petition and also placing on record translated copy of impugned show cause notice dated 24.12.2020 as Annexure P-9.

Keeping in view the averments made in the application, the prayer qua placing on record Annexure P-9 is allowed and same is permitted to be taken on record.

On joint request of learned counsel for the parties, the date of hearing of the main petition i.e. CWP No.21556 of 2020 is preponed from 09.03.2021 to today.

CWP-21556-2020

In the present petition, the grievance of the petitioner is that criminal investigation as well as a departmental enquiry on the same set of allegations have been initiated simultaneously, which is causing prejudice to

the petitioner as the petitioner will have to disclose his defence in the departmental proceedings, which will cause prejudice to the petitioner in the criminal proceedings.

This Court after noticing these averments had issued notice of motion for 09.03.2021 while hearing the petition on 15.12.2020. An application has been filed by the petitioner being CM No.194-CWP of 2021 wherein a show cause notice dated 24.12.2020 (Annexure P-9) issued to the petitioner has been placed on record.

A bare perusal of the show cause notice dated 24.12.2020 (Annexure P-9) shows that the enquiry being conducted against the petitioner has already been concluded by the respondents and the charges have already been proved and the enquiry report alongwith the show cause notice dated 24.12.2020 have been forwarded to the petitioner for his comments.

The above facts show that the enquiry being conducted against the petitioner has already been completed by the Enquiry Officer and a report has already been submitted to the disciplinary authority on 18.12.2020 and the matter is now pending before the disciplinary authority for taking appropriate action. As the enquiry has already been finalized and enquiry report has already been submitted by the Enquiry Officer to the disciplinary authority, grievance of the petitioner that he will have to disclose his defence during the enquiry and the respondent should be restrained from proceeding with the enquiry, has been rendered infructuous. Petitioner is free to raise these arguments before the disciplinary authority by filing appropriate reply to the show casue notice dated 24.12.2020 (Annexure P-9).

Learned counsel for the respondents submits that as per the instructions received by him as of today, no order has been passed on the show cause notice and the respondents are still awaiting the reply of the petitioner. That being so, the petitioner is granted two weeks time from today to file appropriate reply to the show cause notice dated 24.12.2020 and in case, any reply is filed by the petitioner within next two weeks, the disciplinary authority will examine the said reply including the objections raised therein with regard to the conduct of the enquiry, and will pass a speaking order dealing with those objections/contentions raised in the said reply.

Suffice to say that in case, the petitioner is aggrieved in any manner against the order to be passed by the disciplinary authority, he will be within his jurisdiction to avail the appropriate remedy as prescribed under law for the redressal of his grievance.

Let a communication be sent by the State counsel to the respondent-authorities in respect of the order passed today by this Court wherein the time to file reply to the show cause notice has been extended by two weeks.

The present writ petition is disposed of in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 07, 2021
harsha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No