

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

CWP-1684-2022

Date of decision: March 16, 2022

Shamsher Singh Dahiya

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Tribhuvan Dahiya, Senior Advocate with
Mr. Deepak Kundu, Advocate for the petitioner.

Ms. Kirti Singh, DAG Haryana.

Mr. Prateek Rathee, Advocate and
Mr. ChaandRathi, Advocate for the complainant.

ARUN MONGA, J (ORAL)

Petition herein, *inter alia*, is for issuance of an appropriate writ petition and/ or direction orders in the nature of Certiorari/ Mandamus seeking to quash the impugned order dated 31.12.2020 (Annexure P-4) vide which services of the petitioners have been placed under suspension, in contemplation of further disciplinary proceedings, including issuance of charge-sheet under the Haryana Civil Services (Punishment and Appeal) Rules, 2016 (for short 'Rules').

2. Matter was heard on 11.02.2022 and while issuing notice of motion, following order was passed:-

“Notice of motion.

Notice re: stay as well.

On advance service, learned State counsel joins proceedings and accepts notice on behalf of the respondent-State of Haryana and seeks time to get instructions.

Adjourned to 07.03.2022.

In the meanwhile, the material relied upon by the competent authority to pass the impugned suspension order be also placed on record, on or before the next date of hearing.”

3. *Apropos* above, written statement dated 15.03.2022 of Sh. Dinesh Kumar, Under Secretary to Government, Haryana, Jails Department has been filed, wherein, a preliminary fact finding enquiry report has been appended as Annexure R-1. It is *inter alia* stated therein that the basis of passing of the impugned suspension order is report *ibid*. Therefore, it does not lie in the mouth of the petitioner to state that without any basis or material available before the competent authority, the suspension order has been passed.

4. In fact, a perusal of the preliminary fact finding enquiry report would reveal that same was instituted under the instructions of the learned District & Sessions Judge, Hisar at the time of his inspection of the Central Jail-1, Hisar. Suspension is thus not merely on the basis of an old complaint dated 27.07.2019, as is pleaded in the petition and also strenuously argued by the learned Senior counsel for the petitioner.

5. Assuming, as has been canvassed by the learned Senior counsel that an old complaint of the year 2019 could not have been the basis of conducting an enquiry at this stage and the suspension order ought not to have been passed, on that ground alone, at this stage, I am not inclined to ignore an enquiry conducted by a judicial officer and that too pursuant to an inspection conducted by the learned District & Sessions Judge, Hisar of the jail premises. Preliminary report alone is sufficient, *de hors* the said pending old complaint, to be construed as material enough for the competent authority to pass the impugned order.

No grounds for interference are made out.

7. However, petition is disposed of with the expectation from the official respondents that contemplated disciplinary proceedings which are yet to be initiated will be expeditiously concluded. Needless to say, that the defense taken by the petitioner before this Court in the petition, including the objections to be taken *qua* the preliminary fact finding report (Annexure R-1), would be allowed to be taken before the competent authority in the contemplated disciplinary proceedings.

(ARUN MONGA)
JUDGE

March 16, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No