

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

236

CWP No.13601 of 2020 (O&M)
DATE OF DECISION: 29th MARCH, 2022

Anil Kumar Angrish

.... **Petitioner**

Versus

**National Institute of Pharmaceutical Education and Research and
another**

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Krishan Kumar Gupta, Advocate,
for the petitioner.

Mr. Namit Kumar, Advocate and
Mr. Alankrit Bhardwaj, Advocate,
for the respondents.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction especially in the nature of Certiorari for quashing the memorandum dated 06.08.2020 (Annexure P-12) issuing charge-sheet; without considering and without passing any order, on the reply dated 20.06.2020 (Annexure P-11) submitted by the petitioner in response to the earlier Show Cause Notice dated 20.05.2020 (Annexure P-9) containing exactly the same allegations as are now being alleged in the aforesaid memorandum dated 06.08.2020 (Annexure P-12) inspite of order dated 02.07.2020 passed by this Court in CWP No.7642 of 2020.

The counsel for the petitioner has submitted that the petitioner is working as Associate Professor with respondent No.1-Institute since 25.08.2006. Since, the post of Registrar had fell vacant, therefore, the petitioner was given officiating charge of the post of Registrar of the institute for two spells, which were, one for seven days i.e. from 15.09.2018 to 21.09.2018 and another for 21 days i.e. from 08.10.2018 to 29.10.2018. During this period, the petitioner discharged his official administrative duties with due diligence. No act or omission tantamounting of any misconduct was ever done by the petitioner. However, respondent No.2 issued a show cause notice dated 20.05.2020 to the petitioner alleging misconduct on the part of the petitioner in performance of his duties as officiating Registrar. The petitioner had replied to the said show cause notice. However, the respondents did not pass any order on the said show cause notice for a long time. Therefore, the petitioner had to file writ petition bearing CWP No.7642 of 2020. The said writ petition was disposed of by this Court, vide order dated 02.07.2020, as withdrawn; to enable the respondents to pass the order, with a further liberty to the petitioner to approach the Court again in case the order was passed against him. However, later on it turned out that the respondent-Director had already taken a decision on the show cause notice earlier issued to the petitioner; even before the disposal of the said writ petition. The said decision was not based upon any consideration as such. As per the said decision, the petitioner has been issued charge sheet for regular departmental enquiry.

The counsel has further submitted that the Director is not even the competent authority to issue the charge sheet against the

petitioner. His appointing authority, as per the rules applicable to the institute, is the Board of Governors. Therefore, only the Board of Governors could have issued the order for issuance of charge sheet against the petitioner. It is also submitted that the earlier show cause notice was issued for violation of provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965. Therefore, the respondents could not have initiated fresh process of issuing fresh charge sheet to the petitioner without passing a detailed order on each and every charge; as mentioned in the show cause notice issued to the petitioner, and after dealing with the reply filed by the petitioner, point-by-point. The charge sheet now issued to the petitioner, contains exactly the same charges, which were the subject-matter of the earlier show cause notice. Hence, the second attempt on the same charges by the respondents is nothing less than double jeopardy. The counsel for the petitioner has further submitted that the entire action taken by the respondents reflects only *mala fide* intentions on the part of respondent No.2, Director of the Institute.

On the other hand, the counsel for the respondents has submitted that the entire action against the petitioner is strictly in accordance with the rules. Referring to Clause 14 (q) of the National Institute of Pharmaceutical Education and Research Statutes, 2003, the counsel has submitted that the powers to initiate disciplinary proceedings against any employee working in the institute are vested with the Director of the Institute. Hence, the argument of the counsel for the petitioner that the Director did not have the necessary authority to issue the charge sheet is without any basis. The counsel has further submitted

that earlier the petitioner had approached this Court against the mere issuance of the show cause notice, even before replying the same. The respondents had appeared before the Court and pointed out that the writ petition was not even maintainable against mere issuance of show cause notice. Therefore, the writ petition was withdrawn by the petitioner. It is further submitted that during the pendency of the said writ petition, the petitioner had filed reply to the show cause notice. The same was duly produced before the Director of the Institute, who, after considering the same, passed the order of issuance of charge-sheet to the petitioner for a regular departmental enquiry. In any case, that aspect is immaterial. The earlier show cause notice issued to the petitioner was only to come to a preliminary conclusion as to whether the authorities should proceed in the matter or not. Therefore, the petitioner was issued a preliminary notice to seek his explanation in the matter. After considering his reply to the explanation, a formal charge sheet has duly been issued against him. The respondents-Institute shall follow the entire statutory procedure in the matter and the petitioner would be granted due opportunity of hearing during the departmental proceedings. The counsel has further submitted that the writ petition is not even maintainable against mere issuance of a charge-sheet. The argument of the counsel for the petitioner qua double jeopardy is totally absurd. No punishment, as such, was ever inflicted upon the petitioner on the earlier show cause notice. Rather, the show cause notice was not even qua inflicting any punishment upon the petitioner. It was only to come to a tentative view as to whether the action against the petitioner should be initiated through the regular departmental proceedings or not. Hence, the argument raised by the

counsel for the petitioner was totally un-sustainable. Therefore, the present petition deserves to be dismissed.

Having heard the counsel for the parties and having gone through the case file, this Court finds substance in the argument of the counsel for the respondents. The departmental proceedings are within the domain of the discretion of the Punishing Authority. The writ jurisdiction of the High Court is not even meant to interfere in the departmental proceedings at the stage of issuance of the charge sheet, unless any violation of the statutory rules or lack of authority with the person issuing the charge sheet is shown to the Court. In the present case, the counsel for the respondents has rightly relied upon Clause 14 (q) of the Statute of the Institute to point out that the competent authority to issue the charge sheet for regular departmental enquiry is none other than the Director. Therefore, this Court finds that the charge sheet against the petitioner has been issued under the orders of the competent authority. Obviously, the authorities are expected to follow the statutory procedure for enquiry.

Although, the counsel for the petitioner has submitted that the authority has not applied its mind at the time of consideration of the earlier show cause notice, however, the record shows that the competent authority has duly recorded that it did not find the reply filed by the petitioner to be satisfactory. Needless to say that the said notice was not for imposing any punishment against the petitioner as such, nor is there any statutory requirement of recording any detailed reasons while dealing with such a preliminary notice, therefore, no fault could be found with the order of the competent authority, if it has not recorded any reasons in detail. Rather, the stage of recording of the reasons would now come

after the enquiry is held against the petitioner. The departmental enquiry proceedings against the petitioner are intended only to grant him proper opportunity of hearing and, thereafter, the competent authority would again be issuing show cause notice, for punishment, if at all the petitioner is found guilty during the proceedings of enquiry. Therefore, the petitioner is not right in raising an argument against the order of the competent authority in not dealing with the reply filed by the petitioner point-by-point, while ordering issuance of a regular charge sheet against the petitioner. The petitioner has failed to show any provisions under any statutory rules casting an obligation upon the competent authority to record any detailed reasons even while disposing of a reply to an explanation sought from the petitioner and for taking a decision to initiate the departmental enquiry against him.

The next argument of the counsel for the petitioner is that the petitioner would suffer double jeopardy; because earlier also similar charges were leveled against him. However, this argument is totally absurd. There was no charge sheet ever issued to the petitioner earlier. It was only a preliminary notice issued to the petitioner; only to see whether the authority should proceed to issue any charge sheet to the petitioner or not. Thereafter, the current charge sheet has been issued. Hence, there is only one charge sheet issued to the petitioner qua the charges leveled against him. Therefore, the concept of double jeopardy does not come into play; at all. So far as the argument of the counsel for the petitioner qua *mala fides* on the part of respondent-Director is concerned, the same has also been denied by the respondents in the written statement filed by them. In any case, the *mala fide* as such can hardly be a ground for

challenging the charge sheet, which is based on official records. Needless to say that during the enquiry, the charge against the petitioner cannot be proved only because respondent No.2 happens to have any *mala fide* intention against the petitioner, if at all, this was a fact. The charge can be proved only if the respondents-Institute are able to bring on record any concrete material in the form of evidence during the departmental enquiry. Therefore, any aspect of alleged *mala fide* of the competent authority, at this stage, is totally irrelevant. Moreover, it has been stated by the counsel for the respondents that respondent No.2 is no more the Director of the Institute. He has already relinquished the charge. Therefore, there is no scope for influence of any *mala fide* or uncalled-for influences on the result of the enquiry; or upon any decision qua the punishment for the petitioner, if any.

In view of the above, finding no ground to interfere in the present petition, the same is dismissed.

However, nothing said in this order shall be taken as an expression of any adverse opinion against the petitioner; during the proceedings of the departmental enquiry.

All pending miscellaneous applications are also disposed of as such.

29th MARCH, 2022
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes