

2023:PHHC:152042
CWP-26806-2023
Date of Decision: 30.11.2023

Kuldip Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Abhimanyu Kalsy, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner has challenged the charge sheet dated 11.05.2022, issued by respondent No.2-Deputy Commissioner, Ludhiana and submits that before issuing the charge sheet, the inquiry had already been conducted against the petitioner and, therefore, the charge sheet is vitiated in law.

2. It is submitted that the Sub Divisional Magistrate had conducted an inquiry and thereafter the Deputy Commissioner, Ludhiana, has issued a charge sheet, to which, the petitioner submitted a reply and thereafter the Deputy Commissioner, sent the same to the SDM for his comments. Learned counsel submits that the entire inquiry is vitiated and contrary to the provisions contained under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short 'the Rules of 1970'), which prescribed for issuing a charge sheet and thereafter conducting of an inquiry.

3. I have considered the submissions and find that the entire writ petition is wholly misconceived. This Court also finds that a complaint was received against the petitioner with regard to committing fraud. The Inspector

General of Registration, Punjab, appointed the Sub Divisional Magistrate,

Jagraon, to conduct a preliminary inquiry, whereafter, the SDM submitted a preliminary inquiry report to the Inspector General of Registration, Punjab, and found prima facie petitioner guilty and the complaint was found to be correct. The Inspector General of Registration thereafter sent the report to the Collector, Ludhiana on 27.01.2022 informing about the fraud in the record by the petitioner. The Deputy Commissioner having noticed the said report issued charge sheet to the petitioner under Rule 8 of the Rules of 1970, drawing definite charges against him. The petitioner thereafter submitted a reply and the Deputy Commissioner-cum-Collector sent the same for comments to the SDM, relating to his inquiry conducted earlier. The procedure adopted is strictly in consonance with the Rules of 1970.

4. The submissions of learned counsel for the petitioner are wholly misconceived that the inquiry conducted by the SDM was a regular inquiry under the Rules of 1970. It is in fact a preliminary inquiry conducted on the complaint filed by one, Harpreet Singh, whereafter, finding the complaint to be correct and allegations to be prima-facie made out, he submitted his report to the Inspector General of Registration, who thereafter sent the matter to the disciplinary authority. The Deputy Commissioner has exercised powers under Rule 8(3) of the Rules of 1970 and has drawn specific charge sheet against the petitioner. The scheme of rules of 1970, provides that upon such a charge sheet being served on the delinquent, he may submit his written defence. The punishing authority in terms of sub rule 5(a) of the Rules of 1970, may decide to conduct an inquiry itself or if considered necessary, to appoint an inquiry authority for the purpose. Thus, it is the stage where the punishing authority shall examine the reply of the delinquent and reach to the conclusion whether further inquiry is to be conducted or not.

5. The petitioner has approached this Court at this stage when the disciplinary authority has asked for comments from the SDM who had conducted the preliminary inquiry with regard to reply submitted by the petitioner. After receiving the comments it is open for the disciplinary authority either to drop the charges or to proceed and appoint an inquiry officer under the rules.

5. The writ petition filed by the petitioner at this stage is ill-advised and in fact wholly premature as even the Inquiry Officer has not been appointed by the disciplinary authority. It is always open for him to drop the charges or to appoint an inquiry officer or to proceed further in terms of sub rule 6 of Rule 8 of the Rules of 1970. The writ petition filed by the petitioner is thus without any basis and the same is accordingly dismissed.

6. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

30.11.2023.

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