

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CWP- -28588-2023 (O&M)

Decided on :19.12.2023

Joginder Singh

. .Petitioner

Versus

State of Haryana and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

PRESENT: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

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**HARSIMRAN SINGH SETHI , J. (Oral)**

1. The prayer in the present petition is to set aside the order dated 13.04.2022 (Annexure P-13) by which, the sports gradation certificate issued to the petitioner dated 21.06.2021 has been cancelled.

2. Learned counsel for the petitioner submits that once, after ascertaining all the facts and eligibility of the petitioner for the grant of sports gradation certificate, the petitioner was issued a particular gradation certificate, the same could not have been withdrawn without observing the rules of natural justice whereas, unilaterally, the respondents had cancelled the said gradation certificate issued to the petitioner, which act on the part of the respondents is totally arbitrary and illegal.

3. Notice of motion.

4. Mr. Pankaj Middha, Additional Advocate General, Haryana, accepts notice on behalf of respondents-State and submits that keeping in view the instructions from Mr. Ved Parkash o/o District Sports Officer, Nuh, the impugned order dated 13.04.2022 (Annexure P-13) has been passed without issuing show cause notice to the petitioner. Learned counsel for the respondents submits that but on the factual aspect, the stand of the

department is correct that the petitioner was wrongly issued the sports gradation certificate.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Keeping in view the facts which have been stated herein above, no formal reply is needed.

Once, the petitioner was earlier issued a sports gradation certificate, even if, the same was wrongly issued, a due process as envisaged under law especially the rules of natural justice should have been followed. The petitioner should have been given an opportunity to explain as to why, the sports gradation certificate is not wrongly issued to the petitioner so as to rebut the said apprehension of the department. It is only thereafter, the respondents could have passed an order either accepting the plea or rejecting the stand taken by the petitioner in the reply to the proposed action.

7. It is a settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 2265 of 2011 titled as **Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others, 2016(12) SCC 204**, decided on 17.05.2016 and in Civil Appeal No. 9417 of 2019 titled as **M/s Daffodills Pharmaceuticals Ltd. and another vs. State of U.P. and another 2019 (12) JT 283**, decided on 13.12.2019 that where any order passed by the authority concerned causes prejudice to an employee, especially financial liability, an opportunity of hearing is must and no order causing prejudice to an employee can be passed by an employer unilaterally. The relevant para of **Daffodills Pharmaceuticals's case (supra)** is as under:-

*“15. In the present case, even if one assumes that Surender Chaudhary, the accused in the pending criminal case was*

*involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case.*

*16. The High Court, in the opinion of this court, fell into error in holding that in matters of award of public contracts, the scope of inquiry in judicial review is limited. Granted, such jurisdiction is extremely circumscribed; no doubt the court had refused to grant relief to Daffodils against its plea of wrongful rejection of its tender. However, what the impugned judgment clearly overlooks is that the action of the state, not to procure indefinitely, on an assumption of complicity by Daffodils, was in flagrant violation of principles of natural justice.”*

The relevant paragraph of the Chamoli's case (supra) is as under:-

“19. The compliance of natural justice in domestic/disciplinary inquiry is necessary has long been established. This Court has held that even there are no specific statutory rule requiring observance of natural justice, the compliance of natural justice is necessary. Certain ingredients have been held to be constituting integral part of holding of an inquiry. The Apex Court in Sur

Enamel and Stamping Works Pvt. Ltd. v. Their  
Workmen reported in (1964) 3 SCR 616 has laid down  
following:-

“... An enquiry cannot be said to have been properly held unless, (i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined – ordinarily in the presence of the employee – in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the inquiry officer records his findings with reasons for the same in his report.”

8. Keeping in view the above, the impugned order dated 13.04.2022 (Annexure P-13) cannot sustain in the eyes of law and is accordingly set-aside with liberty to the respondents to pass a fresh order in accordance with law after extending due opportunity to the petitioner to defend the allegations of the department that the gradation certificate issued to the petitioner was not accordance with the policy.

9. The present petition stands allowed in above terms.

(HARSIMRAN SINGH SETHI)  
JUDGE

**19.12.2023**

*Riya*

*Whether speaking/reasoned:* Yes/~~No~~  
*Whether Reportable:* Yes/~~No~~