



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 493 OF 2024

Sandeep Shamsunder Chandak -Vs-The State of Maharashtra and

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Sandeep S.Chandak petitioren in person.
Mr.Nikhil Joshi, A.P.P for respondent-State.

**CORAM : VIBHA KANKANWADI &
VRUSHALI V.JOSHI, JJ**

DATE : 24th JUNE, 2024.

1. Heard the petitioner in person. It appears that he wants to challenge the notice i.e. the show cause notice dated 17.06.2024, issued by respondent DCP-Zone 2, Nagpur in respect of procedure to be undertaken for externment. He relies on the order passed by this Court in Criminal Writ Petition No.114 of 2022 dated 13th July, 2022, which was in his earlier petition. From the perusal of the judgment, it can be seen that granting opportunity to the petitioner regarding submission of his stand was the point highlighted and the petition came to be disposed of with direction to the Deputy Commissioner of Police that he should consider the legal provisions. We cannot presume that the appropriate authority will not follow the law. In case, it does not follow the law, then it cannot be point out in a appropriate proceedings. Even as on today, there is only show cause notice i.e. issued.

There is no order as such against the petitioner. Whatever the petitioner wants to say before this Court he can raise it before respondent No.2. It can be in writing also, but by any stretch of imagination as on today, it can be presumed that the legal provisions will not be adhered too. Further, the respondent No.2 is giving an opportunity of hearing to the petitioner.

2. We would like to rely on **Union of India and another Vr. Kunisetty Satyannarayan** reported in (2006) (12) SCC 28, wherein it has been held in the paragraph Nos.13 and 14 as follows:

“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh JT (1995) 8 SC 331 Special Director Vs.Mohd. Ghulam Ghouse AIR 2004 SC 1467, Ulagappa vs. Divisional Commissioner, Mysore,(2001)10 SCC 639 State of U.P.Vs.Brahm Datt Sharma AIR 1987 SC 943.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an

enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance”.

3. Taking into consideration this settled position of law this writ petition cannot be entertained especially under Constitution powers of this Court under Article 226 and 227 of the Constitution of India, when there is only a show cause notice. We do not find any merit in the present petition, it deserves to be dismissed. Accordingly, it is dismissed.

4. Authenticated copy of this order be supplied to the parties.

(MRS. VRUSHALI V.JOSHI,J) (SMT.VIBHA KANKANWADI,J)