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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10461-2019

PREM CHAND

...PETITIONERS

VERSUS

UNION OF INDIA & ORS.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Amit Jhanji, Sr. Advocate with
Mr. Arjun Singh, Advocate
for the petitioner

Mr. Anand Chhibbar, Sr. Advocate with
Mr. Lalit Thakur, Advocate and
Mr. Utkarsh Khatana, Advocate
for Respondent No.2 to 5

1.	The date when the judgment is reserved	18.04.2026
2.	The date when the judgment is pronounced	22.05.2026
3.	The date when the judgment is uploaded	22.05.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction in the nature of Certiorari for quashing the impugned show cause

notice dated 19.09.2018 (Annexure P/10), charge-sheet dated 07.01.2019 (Annexure P/12) and enquiry notice dated 19.03.2019 (Annexure P/14), being wholly without jurisdiction, arbitrary and violative of the principles of natural justice.

The Conspectus Of Facts

2. The petitioner joined HMT Ltd. as a General Clerk Apprentice on 25.09.1979 and, after completion of training, was appointed as Clerk-cum-Typist on 01.07.1981. He earned successive promotions and was ultimately promoted as Deputy Manager, HRD (PS-IV) vide order dated 29.11.2017.

3. The employees of HMT Ltd. had constituted HMT Employees Co-operative Consumer's Society Ltd., Pinjore under the provisions of the Punjab Co-operative Societies Act, 1961. Pursuant to orders dated 12.01.2017 and 02.03.2017, the petitioner was directed to function as Manager of the said Society and assumed charge on 06.03.2017.

4. Subsequently, the petitioner was served with show cause notice dated 19.09.2018 on the basis of complaints alleging misappropriation and embezzlement of Society funds amounting to Rs.6,60,638/-. The petitioner sought copies of the complaints vide representations dated 24.09.2018, 13.10.2018 and 21.12.2018, but according to him, the same were never supplied. Thereafter, charge-sheet dated 07.01.2019 and enquiry notice dated 19.03.2019 were issued against the petitioner under the Conduct, Discipline and Appeal Rules.

5. The case set up by the petitioner is that the Society is a separate legal entity governed by the Haryana Co-operative Societies Act, 1984 and, therefore, the respondent-company had no jurisdiction to initiate disciplinary

proceedings in respect of acts allegedly committed by him while functioning as Manager of the Society. It is further pleaded that non-supply of copies of the complaints relied upon by the respondents amounts to violation of principles of natural justice.

6. Aggrieved against the show cause notice dated 19.09.2018, charge-sheet dated 07.01.2019 and enquiry notice dated 19.03.2019, the petitioner has invoked the writ jurisdiction of this Court.

7. Vide an interim order dated 23.04.2019, this Court stayed the enquiry proceedings initiated pursuant to the charge sheet dated 07.01.2019 (Annexure P-12).

Contentions

On behalf of Petitioners

7. Learned counsel for the petitioner contends that the impugned proceedings are wholly without jurisdiction, as the allegations pertain to the affairs of HMT Employees Co-operative Consumer's Society Ltd., Pinjore, which is an independent legal entity governed by the Haryana Co-operative Societies Act, 1984. It is argued that the petitioner, while functioning as Manager of the Society, was not discharging duties under the control of the respondent-company and, therefore, no disciplinary proceedings could have been initiated against him under the Conduct, Discipline and Appeal Rules of HMT Limited (Ltd.).

8. It is further argued that the show cause notice dated 19.09.2018 is founded upon complaints alleging embezzlement of Society funds, yet copies thereof were never supplied to the petitioner despite repeated representations. According to learned counsel, denial of the said documents on the ground of

confidentiality deprived the petitioner of an effective opportunity to defend himself and thus vitiates the entire proceedings on account of violation of principles of natural justice.

9. Learned counsel further submits that during his tenure as Manager, the petitioner had himself pointed out irregularities in maintenance of records relating to the petrol pump being run by the Society and had issued directions for proper upkeep of accounts and restriction on supply of fuel without payment. It is argued that the present proceedings are merely a consequence thereof and have been initiated with mala fide intent.

10. It is also contended that the respondents proceeded to issue the charge-sheet dated 07.01.2019 and enquiry notice dated 19.03.2019 without supplying the material relied upon against the petitioner.

On behalf of Respondents

11. Learned State counsel, while supporting the action of the respondent-authorities, submits that the writ petition filed against the show cause notice and charge-sheet is wholly premature and not maintainable inasmuch as no final order adverse to the petitioner has yet been passed. It is argued that the petitioner has an effective opportunity to participate in the disciplinary proceedings and raise all factual as well as legal objections before the competent authority.

13. It is further contended that the petitioner was serving as Deputy Manager, HRD in HMT Machine Tools Ltd. and was also entrusted with the additional charge of Manager of the HMT Employees Co-operative Society Ltd. The acts complained of were committed while discharging duties under the administrative control and supervision of the respondent-Company and,

therefore, the petitioner continues to remain governed by the Conduct, Discipline and Appeal Rules applicable to the employees of the Company.

14. Learned counsel further submits that the allegations against the petitioner relate to serious financial irregularities, embezzlement and misconduct concerning the affairs and funds of the Society. The material collected during the vigilance inquiry disclosed prima facie misconduct warranting initiation of disciplinary proceedings. It is argued that the charge-sheet merely initiates an inquiry and does not determine any right or liability of the petitioner.

15. It is also submitted that although the petitioner had initially alleged non-supply of the complaints relied upon in the disciplinary proceedings, copies of the complaints dated 06.07.2018, 27.07.2018 and 30.08.2018 were subsequently furnished along with the written statement filed before this Court. Thus, no prejudice can now be said to have been caused to the petitioner on account of alleged non-supply of documents.

16. Lastly, learned State counsel submits that because of the interim order passed by this Court, the disciplinary proceedings remained stayed and could not attain finality. It is, therefore, prayed that the present writ petition being devoid of merit deserves dismissal and the respondents be permitted to proceed further with the departmental inquiry in accordance with law.

17. Heard.

Analysis

18. The primary challenge in the present writ petition is to show cause notice dated 19.09.2018 and charge-sheet dated 07.01.2019 issued to the petitioner in contemplation of disciplinary proceedings. It is well settled that

ordinarily a writ petition against a mere charge-sheet or show cause notice is not maintainable unless the same is shown to have been issued wholly without jurisdiction or in patent violation of statutory provisions. Reference in this regard may be made to the judgments of the Supreme Court in ***Union of India v. Kunisetty Satyanarayana, 2006(12) SCC 28***, wherein it has been held that ordinarily no writ lies against a charge-sheet as the same does not amount to an adverse order affecting rights of an employee. The relevant part is reproduced as under:

13. 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 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.

The disciplinary proceedings in the present case are still at a nascent stage and no final order prejudicial to the petitioner has yet been passed. Thus, this Court would be slow in interfering in exercise of jurisdiction under Article 226 of the Constitution of India.

19. The principal grievance raised by the petitioner pertains to non-supply of copies of complaints forming the basis of the disciplinary action. However, from the written statement filed on behalf of the respondents, it transpires that copies of the complaints dated 06.07.2018, 27.07.2018 and 30.08.2018 have already been furnished to the petitioner along with the reply before this Court. Once the documents relied upon by the respondents stand supplied, the alleged violation of principles of natural justice does not survive for consideration at this stage. The petitioner would have full opportunity to submit his defence and participate in the inquiry proceedings in accordance with law.

20. The contention regarding lack of jurisdiction is equally devoid of merit. The petitioner admittedly remained an employee of HMT Machine Tools Ltd. and was entrusted with the additional charge of Manager of the Society by the respondent-Company itself. The bye-laws placed on record further show that the General Manager of HMT Ltd. functioned as ex-officio President of the Society and the post of Manager was required to be manned by an employee of the Company. The Society, therefore, cannot be treated as completely independent of the respondent-Company so far as disciplinary control over its deputed employees is concerned.

21. It is equally significant that the allegations against the petitioner relate to financial irregularities and misconduct allegedly committed while discharging official duties connected with the affairs of the Society. Such disputed questions of fact necessarily require examination in departmental proceedings on the basis of evidence led by the parties. Interference by this Court at the threshold would amount to stalling a disciplinary inquiry before

the competent authority could examine the matter on merits. The Supreme Court in ***Union of India v. Upendra Singh, 1994 INSC 623*** has held that adequacy or correctness of the charges cannot ordinarily be examined by the writ Court at the stage of charge-sheet. The relevant extract of the same is here as under:

*6. In the case of charges framed in a disciplinary inquiry the Tribunal or Court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the Tribunal has no jurisdiction to go into the correctness or truth of the charges. The Tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to Court or Tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the Court/Tribunal is one of judicial review, the parameters of which are repeatedly laid down by this Court. It would be sufficient to quote the decision in ***H.B. Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Karnal and other v. M/s Gopi Nath & Sons and other, (1992 Supp. (2) SCC 312)***. The Bench comprising M.N. Venkatachaliah, J. (as he then was) and A.M. Ahmadi, J., affirmed the principle thus :*

"Judicial review, it is trite, is not directed against the decision but is confined to the decision making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the

authority after according fair treatment reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself."

7. Now, if a Court cannot interfere with the truth or correctness of the charges even in a proceeding against the final order, it is understandable how can that be done by the Tribunal at the stage of framing of charges?

22. Thus, it is observed that the law laid down in the aforesaid judgment clearly establishes that judicial review at the stage of issuance of a charge-sheet is extremely limited and the Court cannot enter into the correctness, truthfulness or sufficiency of the allegations levelled against the delinquent employee.

23. In the present case, the charges levelled against the petitioner disclose allegations of financial irregularities and misconduct which undoubtedly require factual adjudication on the basis of evidence during the departmental inquiry. Whether the allegations are ultimately proved or not is a matter to be determined by the disciplinary authority and not by this Court in exercise of writ jurisdiction at the threshold stage. Therefore, no ground is made out for interference with the impugned charge-sheet or the ongoing disciplinary proceedings.

Conclusion

24. Consequently, finding no ground to invoke extraordinary writ jurisdiction, the present writ petition is dismissed.
25. However, it is clarified that nothing observed herein shall be construed as an expression on the merits of the allegations and the disciplinary authority shall proceed independently in accordance with law.
26. Pending application(s), if any shall be disposed off, accordingly.

22.05.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*