NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2006 of 2022

1. Santosh Kumar Yadav S/o Salik Ram Yadav Aged About 41 Years Working As Sweeper, Community Health Center, Sargaon, District Mungeli (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur (C.G.)

2. Collector, Mungeli, District Mungeli (C.G.)

3. Chief Medical And Health Officer, Mungeli, District Mungeli (C.G.)

4. Block Medical Officer, Block Mungeli, District Mungeli (C.G.)

---- Respondents

Web Copy
High Court of Chhattisgarh
Bilaspur

For Petitioner : Mr. C.J.K. Rao, Advocate
For State : Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

29.03.2022

1. The challenge in the present petition is to the disciplinary proceeding initiated against the petitioner.

2. The allegations as per the charge-sheet that was issued vide Annexure P/10 dated 10.08.2021 shows that the charges levelled against the petitioner is that he had obtained employment by playing fraud. That he has been appointed against a post which was not advertised at all. Thus, the respondents have initiated proceedings to take appropriate decision so far as the alleged wrongful appointment of the petitioner is concerned.

3. Counsel for the petitioner submitted that the respondents have already conducted an enquiry in the past where the statements were also recorded of interest witnesses and the petitioner therefore cannot be now subjected to face yet another enquiry. He further submits that department also after due verification, had confirmed the services of the petitioner and which again would establish that the appointment of the petitioner was not in any manner bad-in-law.

4. Be that as it may, the law as it stands, the Hon'ble Supreme Court time and again has made it very clear that the High Court in exercise of its power of judicial review under Article 226 should not entertain writ petitions at show-cause stage or at the stage of issuance of a charge-sheet as they are as such not final orders which would be detrimental to the service condition of the petitioner or the employee. They are only administrative decisions taken by the respondents/ employer. They are only an action by which the employee has been called upon to explain his conduct. That it is only after making a thorough enquiry, would the respondent-authorities take an appropriate decision. At the juncture, the learned counsel for the petitioner submits that there is a direction vide Annexure P/1 to the respondents to conclude the departmental enquiry within a period of 15 days, which would be too short a period for a departmental enquiry to be concluded. It would also show that the respondents have predetermined in their approach. In all probability, they would be cancelling the appointment of the petitioner which would be detrimental to the interest of the petitioner.

Web Copy
High Court of Chhattisgarh
Bilaspur

5. Since this Court is reluctant to entertain the present writ petition at the show-cause stage and charge-sheet stage, the only direction that this

Court can grant at this juncture as regards the observations made by the respondents to conclude the departmental enquiry within 15 days. The respondent-authorities, more particularly the Inquiry Officer shall act in a fair and reasonable manner. The petitioners shall be provided all the opportunity to put forth of his defence in support of his contentions as regards the alleged mis-conduct. Merely because, the disciplinary authority has directed to conclude the departmental enquiry in 15 days period, does not mean that a reasonable opportunity of hearing would not be given to the petitioner only in order to ensure that the enquiry is to be concluded within 15 days. The petitioner would be permitted to adduce his evidence and also to lead his witnesses and evidences in support of his case. The petitioner would also be provided all the relevant documents, which would be relied upon by the authorities in the departmental enquiry.

Web Copy
High Court of Chhattisgarh
Bilaspur

6. With the aforesaid observations, the present writ petition is disposed of.

Sd/-

(P. Sam Koshy)
Judge

Jyoti