IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11366-2023
Date of decision : May 25, 2023

Pushpinder Singh Gill

..... Petitioner

Versus

Punjabi University and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

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Present :-Mr. D. S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate
for the petitioner.

Mr. H. S. Batth, Advocates
for the respondents.

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PANKAJ JAIN, J. (ORAL)

1. The petitioner herein prays for issuance of a writ in the nature of certiorari quashing the chargesheet dated 11.05.2023 (Annexure P-10) and all consequential proceedings thereof.

2. The petitioner is working with the respondent-University and has served about 37 years. Occasionally in the midst of his service he moved to Canada as well. Though he initially got permanent residency in Canada but the same as per him got revoked in the year 2015. Having his family in Canada he used to visit them after taking a sanctioned leave from the University. The petitioner also claims to be a member of Teacher's Association and asserts to be instrumental in raising issues with respect to governance of the University. It has been claimed that the petitioner being vocal in raising these issues has

been treated as eyesore by the Vice Chancellor. With an intent to victimize him, disciplinary proceedings have been initiated issuing chargesheet dated 11.05.2023 (Annexure P-10).

3. Learned Senior counsel representing the petitioner submits that none of the charges as mentioned in the statement of allegations accompanying the chargesheet constitutes substantive misconduct. The proceedings being targeted with malafide intention of the Vice Chancellor the result of these departmental proceedings is a fait accompli. The petitioner being a bona fide voice needs to be protected.

4. Mr. H. S. Baath, learned counsel appearing for the respondents on advance notice submits that there is sufficient material with the University to prove misconduct of the petitioner and the same is evident from the fact that the petitioner gained employment in Canada and appointment letter dated 28.09.2005 is there with the University. Likewise, in reply to the notice the petitioner vide communication dated 8.12.2010 was categoric in saying that he has no visa for Canada whereas at that relevant period of time he was in possession of visa which was issued to him on 23.10.2015 and is about to expire on 19.10.2025. He thus, submits that at this stage, the disciplinary proceedings initiated against the petitioner cannot be ribbed in the face of the aforesaid incriminating documentary evidence against the petitioner.

5. I have heard learned counsel for the parties and have gone through the record of the case.

6. The petitioner claims himself to be a concerned employee of the University and under moral obligation to raise the issue pertaining to the University and thus, apprehends victimization. The petitioner has merely been issued chargesheet. The procedure prescribed for disciplinary proceedings have enough checks and balances having potential to weed out such apprehensions.

The petitioner instead of responding to the chargesheet and the notice has initiated the present *lis* which is merely peremptory in nature. The Court is quite sanguine that in case the petitioner responds to the notice, the authorities shall proceed in accordance with law.

7. Moreover the law with respect to interference in disciplinary proceedings initiated against an employee at this nascent stage stands settled by Hon'ble Supreme Court in the case of **Union of India and another Vs. Kunisetty Satyanarayana (2006) 12 SCC 28** wherein it has been held 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.*
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> *14. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.*
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> *15. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is*

wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

The same has been reiterated in the case of **Secretary, Min. of Defence and Ors. Vs. Prabhash Chandra Mirdha reported as 2012 (11) SCC 565:**

"*11. Ordinarily a writ application does not lie against a chargesheet or show cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, chargesheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a chargesheet or show cause notice in disciplinary proceedings should not ordinarily be quashed by the Court. (Vide : State of U.P. v. Brahm Datt Sharma, AIR 1987 Supreme Court 943; Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh & Ors., (1996) 1 SCC 327; Ulagappa & Ors. v. Div. Commr., Mysore & Ors., AIR 2000 Supreme Court 3603 (2); Special Director & Anr. v. Mohd. Ghulam Ghouse & Anr., 2004(1) S.C.T. 671 : AIR 2004 Supreme Court 1467; and Union of India & Anr. v. Kunisetty Satyanarayana, 2007(1) S.C.T. 452 : AIR 2007 Supreme Court 906). "*

8. In view of the above, this Court does not find it to be a case where writ jurisdiction under Article 226 of the Constitution of India could be resorted to interfere at this stage merely for the reason that the petitioner apprehends that the proceedings shall result in an order against him. As a last effort learned Senior counsel submits that in case the departmental proceedings result in orders of punishment against the petitioner, the same be ordered to be kept in abeyance at least for one week to enable the petitioner to avail his remedy against the said order.

9. Prayer is declined for the same reason that it is again preemptive in nature.

10. The writ petition is dismissed.

May 25, 2023 **(PANKAJ JAIN)**
archana **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable : Yes