
(2020) 06 MP CK 0054

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8332 Of 2020

Kamlesh Kushwah

APPELLANT

Vs

State of Madhya Pradesh & Others

RESPONDENT

Date of Decision : 25-06-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 06 MP CK 0054

Hon'ble Judges : S. C. Sharma, J

Bench : Single Bench

Advocate : Akhil Godha, Vivek Dalal

Final Decision : Disposed Of

Judgement

The petitioner before this Court has filed this present petition being aggrieved by the show-cause notices dated 05.03.2020 and 17.06.2020.

The petitioner's contention is that he has filed a reply to show-cause notice dated 05.03.2020, however, no reply has been filed to notice dated 17.06.2020.

Learned Additional Advocate General has argued before this Court that the present writ petition is only in respect of the show-cause notices and the petitioner should file reply to second show-cause notice dated 17.06.2020 enabling the authorities to pass final order in the matter.

After hearing learned counsel for the parties, it is evident that the present petition against the show-cause notices only.

The Apex Court in the case of Union of India v/s Kunisetty Satyanarayana reported in 2006 (12) SCC 28 has held as under:-

"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 anyone. 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.

15. Writ jurisdiction is discretionary jurisdiction and hence such a discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet."

In light of the aforesaid judgment, the present Writ Petition stands disposed of with a liberty to the petitioner to submit reply to the second show-cause notice dated 17.06.2020 within a period of 10 days from today and the competent authority shall pass appropriate order in accordance with law within a period of 30 days from the date of receipt of such reply.

It is needless to mention that in case, certified copy is not available due to some technical reason, the order uploaded on the website of the High Court shall be treated as certified copy for all purposes and the counsel shall be free to obtain certified copy later on as and when facilities are made available to him.