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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Reserved on : 01.07.2025

Date of Pronouncement : 15.07.2025

Amit Kumar

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amit Kumar – petitioner in person.

Mr. Deepak Balyan, Addl. Advocate General, Haryana,
for respondent No.1.

Mr. Kanwal Goyal, Advocate,
for respondent No.2.

SHEEL NAGU, CHIEF JUSTICE

1. This petition invoking writ jurisdiction and in the alternate supervisory jurisdiction of this Court under Article 226/227 of the Constitution of India seeks quashment of order dated 18.02.2023 (Annexure P-1), vide which the then Administrative Judge, Sessions Division, Yamunanagar, had closed preliminary enquiry into allegations made by the petitioner (a practicing lawyer of District Bar Association, Ludhiana) against respondent No.3 (a Judicial Officer and member of Superior Judicial Service, Haryana), after being satisfied with reply of respondent No.3.



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1.1 As such, challenge herein is essentially to the discretion exercised by the concerned Administrative Judge after conducting a preliminary enquiry into the allegations made by the petitioner against respondent No.3 – Judicial Officer.

1.2 The prayer made in this petition is for quashment of administrative order dated 18.02.2023 closing the preliminary enquiry against respondent No.3; for issuance of a direction to the State to initiate disciplinary proceedings against respondent No.3; and till then withhold the issuance of Integrity Certificate; and withdraw judicial work from respondent No..3.

2. The question that arises in the present case is as to whether a complainant, who made a complaint of alleged misdeeds/misdemeanour by a Judicial Officer, can as a matter of right insist upon the employer to initiate disciplinary proceedings, especially when the employer, after conducting a preliminary enquiry, has decided not to proceed on the disciplinary side against the Judicial Officer.

2.1 To answer the aforesaid question, it would be apt to understand the relationship between a Judicial Officer and the State/High Court. A member of Superior Judicial Service appointed in terms of Article 233 of the Constitution enjoys independence from the Executive. To ensure this, appointment of District/Additional District Judges is though made by the Governor of the State concerned but with consultation with High Court exercising jurisdiction over the State. The separation of Judiciary from Executive, as manifested in Article 50 of the Constitution, is ensured *inter alia* by this procedure.



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2.2 The service conditions of members of superior judiciary of any State are governed by Rules framed by the State Government in consultation with jurisdictional High Court. These Rules govern various service conditions, including disciplinary matters.

2.3 While deciding the question as to whether disciplinary proceedings against a member of Superior Judicial Service should be initiated or not, High Court is the sole competent authority. As and when a written complaint reflecting adversely upon judicial functioning or conduct/behavior of a Judicial Officer is received, same is processed on certain laid down procedures prescribed either by a set of Rules framed under proviso to Article 309 of the Constitution or, in the absence thereof, by decisions of the Full Court or Administrative Committees of the High Court. The procedure followed is to call for affidavit of the complainant in support of allegations made in the complaint. If the complainant furnishes an affidavit, then the Judicial Officer against whom allegations have been made is asked to respond to the allegations. On receipt of response of the Judicial Officer, preliminary enquiry is held on administrative side of the High Court to decide as to whether the material in hand is sufficient to proceed against the Judicial Officer on disciplinary side or not. This preliminary enquiry is unilateral in nature.

2.4 The administrative set up of the High Court is vested with enough discretionary powers to decide whether the material placed in shape of complaint, affidavit of the complainant and response of the Judicial Officer, are sufficient to initiate disciplinary proceedings against the Judicial Officer concerned or not.



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3. In the instant case, complaint of the petitioner is essentially behavioural in nature, rather than pointing out any act of the Judicial Officer concerned involving moral turpitude.

3.1 The Administrative Judge of the concerned district, where the Judicial Officer concerned was posted, undertook a preliminary enquiry to ascertain the veracity and genuineness of allegations made by the petitioner. After having undertaken this preliminary enquiry, the Administrative Judge, who is representative of the High Court qua the concerned District, found that material available on record was insufficient for initiating disciplinary proceedings.

3.2 Accordingly, the Administrative Judge, vide impugned order dated 18.02.2023 (Annexure P-1), decided to close the preliminary enquiry.

4. In the backdrop of aforesaid discussion, it is obvious that once the petitioner as a complainant has informed the controlling/disciplinary authority of respondent No.3 about the misdemeanour, it is for the controlling/disciplinary authority, i.e. High Court, to enquire into the entire allegations and arrive at a conclusion whether to proceed further on the disciplinary side or not. In this exercise of conduction of preliminary enquiry by the controlling/disciplinary authority, the complainant/petitioner has no role to play. The complainant, during conduction or conclusion of preliminary enquiry, cannot prevail upon the controlling/disciplinary authority to take a particular view of the complaint. This preliminary enquiry is to be left entirely to the discretion of the controlling/disciplinary authority without any extraneous interference, including that of the complainant.



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5. Any different view than the one indicated above can be deleterious to the independence of judiciary.

6. Consequently, the question raised by this Court in paragraph 2 (supra) is answered in the negative. Once the complaint submitted on administrative side against a Judicial Officer is processed as per laid down norms, decision to close preliminary enquiry is not amenable to judicial review, except in cases of proven malafides, violation of any fundamental right or the impugned decision being so abhorrent to the basic tenets of law that it shakes the conscious of a common man. None of these grounds is made out in the present case.

6.1 More so, the scope of interference under Article 226 read with Article 227 of the Constitution, in matters of this nature, is extremely restricted. This Court cannot sit as an Appellate Authority over the administrative decision of closing preliminary enquiry, especially in the absence of any of the grounds as aforesaid.

7. The petitioner, who is appearing in person, has relied upon a decision of the Apex Court in **Rakesh Bhatnagar Vs. Union of India and others**, reported in **2014 (15) SCC 646**, to contend that the impugned order of the Administrative Judge is vitiated being bereft of reasons. In the said ***Rakesh Bhatnagar's case***, the order under challenge was that of compulsory retirement by way of penalty. The facts in ***Rakesh Bhatnagar's case*** (supra) are distinguishable, for the simple reason that it is well settled that penalty order passed against a civil post holder ought to be speaking and, therefore, the non-speaking order was interfered with by the Apex Court.



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7.1 In the instant case, the order under challenge is an administrative order, which though may not be elaborately speaking, but is backed by a detailed preliminary enquiry into the veracity and genuineness of allegations made in complaint filed by the petitioner. Thus, ***Rakesh Bhatnagar's case*** (supra), relied upon by the petitioner, is of no avail.

7.2 In this regard, it would be pertinent to refer to the decision of Apex Court in ***Ishwar Chand Jain Vs. High Court of Punjab and Haryana and another*** reported in **(1988) 3 SCC 370**, wherein it was held thus :

“10..... It is a matter of common knowledge that many a time when a litigant is unsuccessful he makes allegations against the presiding officer stating that he had received illegal gratification.”

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14. Under the Constitution the High Court has control over the subordinate judiciary. While exercising that control it is under a constitutional obligation to guide and protect judicial officers. An honest strict judicial officer is likely to have adversaries in the mofussil courts. If complaints are entertained on trifling matters relating to judicial orders which may have been upheld by the High Court on the judicial side no judicial officer would feel protected and it would be difficult for him to discharge his duties in an honest and independent manner. An independent and honest judiciary is a sine qua non for rule of law. If judicial officers are under constant threat of complaint and enquiry on trifling matters and if High Court encourages anonymous complaints to hold the field the subordinate judiciary will not be able to administer justice in an independent and honest manner. It is therefore imperative that the High Court should also take steps to protect its honest officers by ignoring ill-conceived or motivated



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complaints made by the unscrupulous lawyers and litigants.”

8. In the conspectus of above discussion, this Court is of the considered view that no case for interference is made out and, therefore, the present petition stands dismissed in limine.

(SHEEL NAGU)
CHIEF JUSTICE

July 15, 2025
narotam

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No