



HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 807/2012

Sardar Mal Yadav

----Petitioner

Versus

State Elementary Education and Ors

----Respondents



For Petitioner(s)	:	Mr. Vinod Sharma for Mr. Saransh Saini
For Respondent(s)	:	Mr. Gopal Krishan Sharma, AGC Mr. Jagdish Narayan Meena (OIC), DEO, El. Jaipur-I Mr. Ram Singh Yadav, OIC, DEO, El, Kotputli Mr. NL Katariya, Enquiry Officer, CBEO, Dudu Mr. Bhupendra Singh Chauhan, Principal concerned School, PEEO, Taskola Paota

JUSTICE ANOOP KUMAR DHAND

Order

07/02/2025

Reportable

1. The instant case is a glaring example of negligence on the part of the State instrumentalities. Charge-sheet was served upon the petitioner-delinquent way back in the year 2011 and the proceedings arising out of the said charge-sheet were not concluded in-spite of passing of a considerable time, hence, under these circumstances, the petitioner has approached this Court by way of filing the instant writ petition.



2. During pendency of this petition, the petitioner has retired after attaining the age of superannuation on 31.01.2025.

3. On asking of the Court, the State counsel apprised that the enquiry pertaining to the charge-sheet dated 09.11.2011 was completed on 04.03.2014 itself, but no final orders has been passed by the Disciplinary Authority.

4. It is quite a shocking state of affairs that the Disciplinary Authority has not passed any final order in-spite of receipt of the enquiry report in the year 2014. As per the provisions contained under the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short 'the Rules of 1958'), the Disciplinary Authority is expected to pass final orders immediately after receipt of the enquiry report, but here in the instant case, no orders were passed, even after passing of more than 12 years.

5. In the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi and Ors.**, reported in **AIR 2016 SC 101**, the Hon'ble Apex Court has emphasized that it is the duty of the employer to ensure that the Departmental Enquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In the cases where the delinquent is placed under suspension, during the pendency of such enquiry, then it becomes all the more imperative for the employer to ensure that the enquiry is concluded in the shortest possible time, to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.



6. As a matter of fact, this Court has time and again experienced that after completion of the enquiry, the issue involved therein does not come to an end because if the findings of the enquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

7. Keeping these factors in mind, this Court is of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude within the time frame due to certain unavoidable causes, arising in the proceedings, then efforts should be made to conclude within a reasonably extended period, depending upon the cause and the nature of inquiry.

8. This Court has observed on various occasions that the Officer-In-Charge of the cases are not taking the matters seriously, which are pending before this Court since long. The Rajasthan Law and Legal Affairs Department Manual, 1999 has been formulated which assigns duties of the Officer-In-Charge of the cases. Rule 233 thereof deals with the duties of the Officer-In-Charge, which reads as under:

"233. Duties of the Officer-in-charge.-The Officer-in-charge shall:-



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- (1) make such inquiries into the facts of the case as may be necessary;
- (2) collect all the relevant files, rules, notifications, order and documents;
- (3) prepare a report answering parawise all the points raised in the plaint/petition and giving such additional information as is likely to be of help to the Counsel of the State;
- (4) contact the State Counsel with the said report and material;
- (5) get the written statement/reply prepared by the State Counsel duly signed and get it vetted by the Department concerned or the Controller of Litigation, as the case may be, and get it filed in the concerned Court;
- (6) assist the State Counsel in the preparation and conduct of the case and always keep himself aware with date fixed in the case, its stage and progress;
- (7) inform the Department concerned as and when an order/judgment particularly against the Government is passed; and
- (8) immediately inform the Head of the Department/Administrative Department about the case/cases in which he has been appointed as Officer-in-charge throughout a demi-official letter, as soon as, he receives an order of his transfer. If his appointment is by name, he will continue to be the officer-in-charge even after handling over the charge of post till another officer-in-charge is appointed, and if his appointment as Officer-in-charge is by designation then on his transfer he will hand over the relevant file and record to his successor in officer."

9. The Officers-In-Charge are not discharging the above bounden duties. In many cases, they are neither providing the factual reports nor the relevant documents to the Government Counsels for considerable long time and that is why the State Counsels are seeking time again and again to file reply and additional affidavits.



10. The question of accountability of Officers-In-Charge looms large in such like matters. It is the right and high time for all the State-Departments to instruct the Officers-In-Charge of all the cases to follow their duties as per Rule 233 in its letter and spirit. If Officer-In-Charge of any particular department is over burdened with the cases, then additional Officers-In-Charge be appointed for speedy disposal of the cases.

11. The Government is a party in the maximum number of pending litigations, before this Court. With its vast machinery, the government is well-equipped to find solutions to various situations. It is not in a more disadvantageous position than an ordinary litigant. Law officers and Officers-In-Charge should not be allowed to remain idle and Courts must ensure that they are not part of any delaying tactics that hinder the timely disposal of cases. There is a need to streamline and redefine the entire system and procedure for the benefit of all the stakeholders. The Government, being a powerful entity, should set an example in upholding ethical standards, ensuring swift resolution of matters before the Courts.

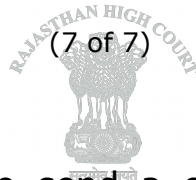
12. This Court feels pain to observe that most of the Officers-In-Charge of cases are not adequately assisting in the matters pending before this Court. They are repeatedly taking excessive time in Court proceedings in a casual manner, failing to provide proper support to the government counsels. Due to their negligence, the Court is not in a position to proceed with the cases, as State counsels often request the Courts to seek additional instructions, leading to frequent



deferrals of proceedings from one date to another. In such circumstances, the fundamental right of the parties to have their cases disposed of expeditiously is being violated.

13. Taking a serious note of the situation, the Chief Secretary of the Government of Rajasthan is directed to file an affidavit on or before the next date to apprise this Court with regard to improvement in the system by formulating strict guidelines and directing all the Officers-In-Charge of the cases of all the State-Departments to remain careful in future with regard to all the cases pending before this Court, where the State Government is a party. He is further directed to instruct all the departments to prepare a mechanism to conclude the Departmental Enquiries in a shortest possible time span.

14. The Advocate General as well as the Principal Law Secretary, Department of Law and Legal Affairs are directed to apprise all the Additional Chief Secretaries, Principal Secretaries, Secretaries and Head of Departments to instruct all the Law Officers and Officers-In-Charge of the cases to remain present in the Court whenever required and to keep the Government counsel updated with the progress report and outcome of the matters of the aggrieved persons, pending at the level of the departments. Absence of proper assistance, on the part of the Officers-In-Charge of the cases, now onwards would be viewed seriously and in case any adverse order is passed due to lack of proper assistance on their part, it shall be treated as his/her personal responsibility and the Erring Officer shall be made liable for strict disciplinary action.



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15. Office is directed to send a copy of this order to the Advocate General; Chief Secretary; and Principal Law Secretary, Department of Law and Legal Affairs, Government of Rajasthan for necessary compliance of this order.

16. List on 10.03.2025.

(ANOOP KUMAR DHAND),J

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