



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No.7443/2019

Manoj Sharma Son Of Late Shri Ram Sharma, R/o Surya Nagar,
Gopalpura Bypass, Jaipur, presently posted as C.O. Bundi
District Bundi, Rajasthan.



-----Petitioner

Versus

State of Rajasthan, Through P.P.

-----Respondent

For Petitioner(s)	:	Mr.Tripurari Sharma
For Respondent(s)	:	Mr.Jitendra Singh Rathore, PP Mr.Vivek Choudhary, PP

JUSTICE ANOOP KUMAR DHAND

Order

03/01/2025

1. By way of filing of this petition, a challenge has been made to the impugned order dated 17.08.2019 passed by the Civil Judge and Judicial Magistrate, Bamanwas, District Sawai Madhopur in F.I.R. No.221/2018 (F.R. No.22/2019) registered with the Police Station Bamanwas, District Sawai Madhopur by which adverse remarks have been passed against the petitioner and the Director General of Police (for short, "the DGP") has been directed to conduct departmental enquiry against the person.
2. Learned counsel for the petitioner submits that the petitioner was not the Investigating Officer even then, ex-parte remarks were passed against the petitioner and a direction was issued to the DGP to initiate disciplinary proceedings against the petitioner.
3. Counsel further submits that without issuing any notice to the petitioner and without affording any opportunity of hearing,



the order impugned has been passed which has resulted into gross violation of principles of natural justice. Counsel submits that under these circumstances, interference of this Court is warranted.



4. *Per contra*, learned Public Prosecutor opposed the arguments raised by the counsel for the petitioner.

5. Heard and considered the submissions made at Bar and perused the material available on the record.

6. Perusal of the record indicates that while passing the impugned order dated 17.08.2019, adverse remarks have been passed against the petitioner with regard to the negligence committed by the Investigating Officer during the course of investigation.

7. Perusal of the record indicates that the petitioner was not the Investigating Officer and he has not conducted any investigation of the case in hand. He was simply the Circle Officer and even then, adverse remarks have been passed against the petitioner without issuing any notice and without affording any opportunity of hearing to him.

8. It is indeed a settled proposition of law and part of the principles of natural justice that a man cannot be condemned unheard. Therefore, before passing the adverse remarks against the petitioner, the Presiding Officer was duty bound to issue notice to the petitioner and afford him due opportunity of hearing, but in the instant case, without following the above aforesaid procedure, straightaway the order impugned has been passed which has casted stigma on the service career of the petitioner. In the considered opinion of this Court, before passing the impugned



order, a fair opportunity of hearing ought to have been given to the petitioner.

9. Accordingly, the instant writ petition stands allowed. The impugned order dated 17.08.2019 stands quashed and set aside. The matter is remitted back to the trial Court to pass fresh order, after affording due opportunity of hearing to the petitioner.



(ANOOP KUMAR DHAND),J

Aayush Sharma /69