

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2035 of 2014

- Munnalal Dewangan S/o Kanhaiyalal Dewangan Aged About 37 years
R/o Dewangan Mohalla, Ward No.8, Champa, Ps & Post Champa, Civil
& Revenue Distt Janjgir Champa, Cg

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration & Development, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Distt Raipur, Cg
2. Director, Urban Administration & Development, Chhattisgarh, R.D.A. Building, Raipur, Distt Raipur, Cg
3. Joint Director, Urban Administration & Development, Divisional Office, Bilaspur, Distt Bilaspur, Cg
4. Nagar Panchayat Saragaon, Throuth Chief Municipal Officer, Nagar Panchayat Saragaon, Distt Janjgir Champa, Cg
5. Chief Municipal Officer, Nagar Panchayat, Pathariya, Distt Mungeli, c G

---- Respondents

For Petitioner	Shri Manoj Paranjpe, Advocate
For Respondent/State	Shri P. K. Bhaduri, GA
For Respondent No.2	Shri Rajnish Singh Baghel, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

14/07/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has assailed the legality and validity of the order dated 04.04.2014, whereby the Director, Urban Administration and

Development, Chhattisgarh has placed the petitioner under suspension in exercise of powers under Rule 53 of the Chhattisgarh Municipal Employees Recruitment and Conditions of Service Rules, 1968.

3. Shri Paranjpe, learned counsel for the petitioner would refer to the Division Bench judgment of Madhya Pradesh High Court in **Balramsingh S/o Raghunath Singh Thakur vs. Municipal Council, Dhamtari**¹ to contend that since on the date of issuance of suspension order, a departmental enquiry was not constituted or initiated against the petitioner. The authority was not empowered to place the petitioner under suspension. He would submit that on account of interim order passed by this Court, the petitioner has now been reinstated.
4. Shri Bhaduri, learned State counsel would submit that although a departmental enquiry was not constituted against the petitioner on the date of issuance of suspension order but, subsequently, the charge sheet has been issued on 20.05.2014, therefore, the ground agitated by the petitioner is no longer available to him.
5. In the matter of **Union of India and another vs. Ashok Kumar Agrawal**², the Supreme Court has held that suspension order is required to be passed by the competent authority to consider the gravity of alleged misconduct and nature of evidence available, in order to keep the delinquent out of mischief and to complete the disciplinary proceedings on him. It is also held that a delinquent employee is no better off after charge sheet is filed against him and further that the writ Court has limited jurisdiction to interfere in the matter governing suspension of delinquent unless the order is actuated

1 1992 M.P.L.J. 194

2 (2013) 16 SCC 147

by malafide or abuse of power.

6. In view of the above and particularly for the reason that the entire order passed by this Court is pending since last more than a year and thereafter the charge sheet has been issued against the petitioner, the writ petition is disposed of with a direction that if the appointing authority/disciplinary authority deems appropriate, it may review the order for deciding as to whether there is any necessity of keeping the petitioner under suspension within three months.
7. Till the disciplinary authority takes a decision in the matter, the interim order passed by this Court shall continue.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala