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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1572 of 2013

- Baleshwar Yadav S/o Khema Yadav Aged About 46 Years Accountant, Chief Executive Office, Janpad Panchayat Bagicha, Ps Bagicha, Block Bagicha, Distt Jashpur, c G

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Welfare Deptt, Mantralaya, Ps Rakhi, Tah Aranag, Naya Raipur, Dist Raipur, Cg
2. Commissioner Sarguja Division, Ambikapur, Ps Ambikapur, Dist Surguja, Cg
3. Collector Jashpur, Ps & Dist Jashpur, Cg
4. Chief Executive Officer Zila Panchayat, Ps Jashpur, Distt Jashpur, Cg
5. Chief Executive Officer Janpad Panchayat, Bagicha, Ps Bagicha, Dist Jashpur, Cg

---- Respondents

For Petitioner	Shri C.J.K. Rao, Advocate with Shri Harish Khuntiya, Advocate
For Respondent/State	Shri Y.S. Thakur, Dy. AG along with Shri Sangharsh Pandey, Dy. GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

02/09/2015

Heard finally with the consent of the learned counsel for the parties.

1. The petitioner is working as Accountant in the office of Janpad Panchayat, Bagicha, District Jashpur. Vide order dated 19.09.2012 issued by the Collector, Jashpur in exercise of powers under Rule 9 of

the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'the Rules, 1966'), the petitioner was placed under suspension and his appeal was also dismissed by the Commissioner on 03.12.2012. The petitioner thereafter preferred WPS No.5447/2012, wherein this Court observed that the Rules, 1966 do not apply to the petitioner, therefore, Rule 9 cannot be invoked by the Collector, however liberty was reserved in favour of the competent authority to pass fresh order in accordance with law.

2. Thereafter, the Collector issued a communication on 24.01.2013 to the Chief Executive Officer (for short 'the CEO'), Janpad Panchayat, Bagicha to take action under Rule 4 of the Chhattisgarh Panchayat Services (Discipline and Appeal) Rules, 1999 and suspend the petitioner after obtaining the proposal from the General Administration Committee of the Janpad Panchayat. When the Janpad Panchayat passed a contrary resolution on 12.02.2013 recommending not to suspend the petitioner, the Collector exercised the *suo moto* revisory power and passed the impugned order on 01.05.2013 suspending the petitioner.
3. Rule 4 of the Rules, 1999 makes provision for suspension of a member of Panchayat Service. The said rule nowhere prescribes for a resolution before placing a member of Panchayat Service under suspension, therefore, at the first instance, recommendation of the elected body for suspension of the petitioner was not at all required, however, at the same time, what the Collector could not have done under the Rules of 1966 or under Rule 4 of the Rules, 1999, the same could not have done in exercise of revisory power, a power to suspend an employee has to emanate from the relevant rules, which governs

the service conditions and a revisory or an appellate authority while dealing with a resolution of the Janpad Panchayat cannot direct suspension of a member of Panchayat Service.

4. For the foregoing, the writ petition is disposed of with a direction that the CEO, Janpad Panchayat, Bagicha, who is the disciplinary authority of the petitioner take a decision under Rule 4, within a period of 3 months. The CEO, Janpad Panchayat, Bagicha shall inform about the steps taken to the Jila Panchayat, Jashpur. The interim order passed earlier to continue till the matter is considered by the CEO, Janpad Panchayat, Bagicha.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

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