

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1660 of 2015

- Guharam Dhritlahre S/O Shri Dauram Dhritlahre Aged About 59 years Incharge Block Education Officer, Kasdol, District Baloda Bazar-Bhatapara, (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Education Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (C.G.)
2. Commissioner, Raipur Division, Raipur, (C.G.)
3. District Education Officer, Baloda Bazar, District Baloda Bazar-Bhatapara, (C.G.)

---- Respondents

For Petitioner	: Shri Ajay Shrivastava, Advocate
For Respondent/State	: Shri Bhaskar Payasi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/06/2015

Petitioner has preferred this writ petition challenging the order dated 20/04/2015 (Annexure P/1) by which he has been suspended in exercise of powers under Rule 9 of the Chhattisgarh Civil Services (Classification, Control & Appeal) Rules, 1966 (for short '*C.C.A. Rules, 1966*').

2. When confronted with the fact that the petitioner has an alternative remedy of preferring an appeal under Rule 23 of C.C.A. Rules, 1966 learned counsel would submit that since in the impugned order there is no mention that

a departmental enquiry is contemplated against the petitioner the very foundation for exercising powers under Rule 9 is not available, therefore, there being an error of jurisdiction, in view of law laid down by this Court in the matter of '*V. K. Kesharwani Vs. State of Chhattisgarh and another*' in W.P. No. 2918 of 2006, the petitioner has approached this Court invoking extra ordinary jurisdiction under Article 226 of the Constitution of India.

3. In the matter of *V. K. Kesharwani* (supra) this Court has clearly observed that before exercising powers under Rule 9 it is necessary for the authority to record that either disciplinary proceeding is contemplated or pending for the misconduct or a criminal case is pending, meaning thereby that in the absence of such satisfaction exercise of power under Rule 9 is vitiated.

4. Having considered the submission and more particularly the order passed by this Court in the matter of *V. K. Kesharwani* (supra) this writ petition is disposed of with observation / direction that in the event the petitioner prefers an appeal before the appellate authority within a period of 15 days from today, along with an application for grant of interim relief / stay, the appellate authority shall deal with the appeal as also prayer for grant of interim relief and decide the same by speaking order as early as possible and preferably within a period of three months from the date of presentation of appeal.

5. Till the prayer for interim relief is considered and disposed of by appellate authority, the effect and operation of the impugned order shall remain stayed during pendency of prayer for interim relief.

JUDGE