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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6095 of 2014**

K.P. Dewangan, S/o Shri K.R. Dewangan, aged about 43 years, Posted as Joint Collector, District Jashpur (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
2. Principal Secretary, Panchayat & Social Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
3. Sudhir Agarwal, Enquiry Officer and the then Special Secretary, Panchayat & Social Welfare Department, Presently posted as Chief Executive Officer, PMGSY, Vikas Bhawan Raipur.

---- Respondent

For Petitioner : Shri Anup Majumdar, Advocate.
For Respondent/State : Shri YS Thakur, Deputy Advocate General.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****20/08/2015**

1. The petitioner has preferred this writ petition challenging the order passed by the State Government under Rule 10 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (Henceforth 'the Rules') imposing penalty of dismissal from service.
2. Admittedly, the order under challenge is appealable under Rule 23 of

the Rules, therefore, statutory alternative remedy is available to the petitioner.

3. It is argued that under the circular issued by the General Administration Department of the erstwhile Government of Madhya Pradesh on 8.4.1999, in cases where the order of punishment has been approved in coordination, final decision in the appeal shall be taken by the Council of Ministers. Thus, learned counsel for the petitioner would submit that the said procedure amounts to filing of appeal against the order passed by the State Government under the approval from the Chief Minister, to the Council of Ministers and as such, the remedy is illusory and not efficacious. Learned counsel would also submit that in view of the State Government's circular dated 20.9.1965, whenever consultation has been made with the PSC, copy of such report of the PSC shall be supplied to the delinquent, and as the same having not been followed in the present case, there is violation of principles of natural justice and the present writ petition is maintainable. He would also submit that return has been filed and the pleadings are complete, therefore, this writ petition may be heard.
4. In **Union of India and others Vs. Major General Shri Kant Sharma and another**¹, the Supreme Court relying on its earlier judgment in the matter of **Nivedita Sharma Vs. Cellular Operators Assn. of India** {(2011) 14 SCC 337} has held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.
5. The circular dated 8.4.1999 or the circular dated 20.9.1965 only speaks about the procedure for deciding the appeal. Even if the appeal preferred before His Excellency the Governor is sent to the Council of Ministers, the law considers the same to be an appeal before the

¹ (2015) 6 SCC 773

Governor and decided by the Governor. If the contention raised by the petitioner is accepted, then in all cases where penalty has been imposed by the State Government, there would be no alternative remedy and all petitions would directly come before this Court, which would be in violation of the law laid down by the Supreme Court in **Major General Shri Kant Sharma** (Supra).

6. Merely because notices have been issued and pleadings are complete, this Court cannot bypass the statutory remedy and entertain the writ petition.
7. Accordingly, the writ petition is disposed of with liberty to the petitioner to avail alternative remedy within 30 days. If the appeal is preferred within the above-said period, the appellate authority shall consider and decide the appeal at the earliest, preferably within a period of 3 months.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve