

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2717 of 2015

- Y. K. Patel S/o Shri C.L.Patel Aged About 55 years, C E O Janpad Panchayat, Narharpur, Distt Kanker, (Chhattisgarh) R/o R E S Colony, Civil Lines, Narharpur, Distt. Kanker, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, SC And ST Development Department, Mantralaya At Mahanadi Bhawan, Naya Raipur, (Chhattisgarh) Pin Code- 492002
2. Commissioner, SC And ST Development, Indravati Bhawan, Naya Raipur (Chhattisgarh) , Pin Code 492002
3. Joint Secretary SC And ST Development Department, Mantralaya At Mahanadi Bhawan, Naya Raipur (Chhattisgarh) Pin Code- 492002

---- Respondents

For Petitioner	Shri Saji Kumar Thomas, Advocate
For Respondent/State	Shri Shashank Thakur, GA

Hon'ble Justice Prashant Kumar Mishra

Order On Board By

30/07/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. At the relevant time, the petitioner was posted as Assistant Director, Tribal Development, Raipur. He is presently working as Chief Executive Officer, Janpad Panchayat Narharpur, District Kanker. He is aggrieved by the impugned order dated 22.07.2015 (Annexure-P-1), passed by the State Government keeping him under suspension in

exercise of power under Rule 9 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.

3. Learned counsel for the petitioner would submit that in the meeting of the Selection Committee for selection of schools and fee fixation, held on 30.06.2014, the petitioner was called by the Assistant Commissioner, Raipur even though, the petitioner was not a member of the Selection Committee, therefore, the petitioner cannot be held liable for any incorrect or wrong decision taken in the said meeting and his suspension is without any basis.
4. Whether or not the petitioner was a member of the Selection Committee would not be such an important factor at this stage, because the petitioner is challenging the order of suspension, which is never treated as punishment. The fact remains that the petitioner had participated in the meeting and was a part of the decision making process, therefore, if any decision taken in the said meeting was found contrary to the government policy, prima-facie a case for suspension is made out.
5. In the matter of **Union of India and another vs. Ashok Kumar Aggarwal**¹, the Supreme Court has reiterated the principle as to scope of interference in the matters concerning suspension of government servant and it has been held thus:-

“26. The scope of interference by the Court with the order of suspension has been examined by the Court in a large number of cases, particularly in *State of M.P. v. Shardul Singh*, *P.V. Srinivasa Sastry v. Comptroller & Auditor General*, *ESI v. T. Abdul Razak*, *Kusheshwar Dubey v. Bharat Coking Coal Ltd.*, *Delhi Cloth & General Mills Ltd. v. Kushal Bhan*, *U.P. Rajya Krishi Utpadan Mandi Parishad v. Sanjiv Rajan*, *State of Rajasthan v. B.K. Meena*, *Prohibition and Excise Deptt. v. L. Srinivasan*—and *Allahabad Bank v.*

¹ (2013) 16 SCC 147

Deepak Kumar Bhola, wherein it has been observed that even if a criminal trial or enquiry takes a long time, it is *ordinarily* not open to the court to interfere in case of suspension as it is in the exclusive domain of the competent authority who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897 and while exercising such a power, the authority can consider the case of an employee for revoking the suspension order, if satisfied that the criminal case pending would be concluded after an unusual delay *for no fault of the employee concerned*. Where the charges are baseless, mala fide or vindictive and are framed only to keep the delinquent employee out of job, a case for judicial review is made out. But in a case where no conclusion can be arrived at without examining the entire record in question and in order that the disciplinary proceedings may continue unhindered the court may not interfere. In case the court comes to the conclusion that the authority is not proceeding expeditiously as it ought to have been and it results in prolongation of sufferings for the delinquent employee, the court may issue directions. The court may, in case the authority fails to furnish proper explanation for delay in conclusion of the enquiry, direct to complete the enquiry within a stipulated period. However, mere delay in conclusion of enquiry or trial cannot be a ground for quashing the suspension order, if the charges are grave in nature. But, whether the employee should or should not continue in his office during the period of enquiry is a matter to be assessed by the disciplinary authority concerned and ordinarily the court should not interfere with the orders of suspension unless they are passed in mala fide and without there being even a prima facie evidence on record connecting the employee with the misconduct in question.”

6. Applying the test laid down in the matter of **Ashok Kumar Aggarwal** (supra) in the facts of the present case, this Court is of the considered opinion that it is not a case where, the impugned order has no basis at all. Ordinarily, this Court would not come across such detail and lengthy order of suspension. The order is self speaking and deals with every possible details of the contemplated charges.
7. This Court cannot substitute its own decision with that of the prima-facie satisfaction of the disciplinary authority or the appointing authority to place a government servant under suspension. The petitioner has

not alleged any mala-fide against any superior officer nor any allegation of lack of jurisdiction in the authority passing the impugned order has been made, therefore, the impugned order does not suffer from any infirmity.

8. Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala