

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 781 of 2015**

- Prabhu Ram Nagesh, S/o late Shri Baichandru Ram Nagesh, aged about 50 years, resident of village and Post Mainpur Khurd, Tahsil Mainpur Khurd, Dist. Gariyaband (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, Dist. Raipur (C.G.)
2. Directorate, Public Instructions through its Director, Vivekanand Nagar, Raipur, Dist. Raipur (C.G.)
3. District Mission Director, Rajiv Gandhi Shiksha Mission, Gariyaband, Dist. Gariyaband (C.G.)

---- Respondents

For Petitioner : Shri Amrito Das, Advocate.

For Respondents : Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****07/05/2015**

1. The petitioner has assailed the legality and validity of the order dated 19.2.2015 passed by the Collector in exercise of power under Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (henceforth 'the Rules, 1966') read with Rule 1, 2 & 3 of the Civil Services (Conduct) Rules, 1965 (henceforth 'the Rules, 1965') suspending him from the duties and fixing his headquarter at

Gariyaband.

2. It has been argued that the petitioner's substantive post is Headmaster and is presently working as Block Resource Coordinator, Mainpur which is a Class-2 Gazetted cadre post under the Chhattisgarh School Education Gazetted Service (School Level Service) Recruitment and Promotion Rules, 2008 (henceforth 'the Rules, 2008'). Therefore, the Collector has no authority or jurisdiction to suspend a Class-2 Gazetted Officer, as the Collector is neither appointing authority nor the disciplinary authority of the petitioner. Learned counsel would refer to the judgment rendered by this Court in **Anil Kumar Jain Vs. State of Chhattisgarh & others** {Writ Petition No.3160/2006, decided on 9.10.2014}.
3. Learned State counsel would submit that the impugned order is appealable, therefore, the petitioner should have preferred an appeal rather than rushing to this Court.
4. Considering the entire fact situation of the case and having prima facie found substance in the argument that in view of the law laid down by this Court in Anil Kumar Jain (Supra), the District Collector has no authority or jurisdiction to suspend Class-2 Gazetted Officer, this writ petition is disposed of with a direction that the petitioner shall prefer an appeal before the appellate authority under Rule 23 of the Rules, 1966 within a period of one month from today and on such appeal being filed, the appellate authority shall consider and decide the petitioner's appeal at the earliest, preferably within a period of 3 months from the date of submission of appeal. However, till the petitioner's appeal is decided, the effect and operation of the impugned suspension order shall remain stayed.

J U D G E