

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (S) No.6941 of 2009**

K.S. Gendre, S/o Shri Bir Singh Gendre, aged about 54 years,  
Occupation Headmaster, Government Middle School, Taraud, Balod,  
District Durg, Chhattisgarh

**---Petitioner**

**versus**

1. State of Chhattisgarh through Secretary, School Education Department, D.K.S. Bhawan, Raipur, Chhattisgarh
2. District Education Officer, Durg, District Durg, Chhattisgarh
3. Block Education Officer, Balod, District Durg, Chhattisgarh
4. Commissioner, Lok Shikshan Sanchanalaya Chhattisgarh, Raipur, Chhattisgarh

**---- Respondents**

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| For Petitioner        | : | Shri D.N. Prajapati, Advocate |
| For State/Respondents | : | Smt. Smita Ghai, Panel Lawyer |

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**Hon'ble Shri Navin Sinha, Chief Justice**

**Order on Board**

**13/4/2016**

1. Heard Learned Counsel for the Petitioner and the State.
2. Learned Counsel for the Petitioner submits that till date the Respondents have not complied the order dated 8.7.2013 by production of the original records of the departmental inquiry.
3. The Petitioner was proceeded with departmentally and an order of punishment dated 8.7.2009 passed for stoppage of three increments with cumulative effect. Simultaneously, the suspension was revoked ordering that he shall not be entitled to anything beyond subsistence allowance for the period of suspension.
4. In an order of punishment arising out of a departmental proceedings judicial review under Article 226 of the Constitution of India has to be confined to procedural infirmities in the decision making process by the authorities and not examination of the merits of the decision itself. The recitals in the impugned order reflect that the Petitioner had filed his reply to

the charges. The writ petition is silent on this aspect. Obviously, the Petitioner had participated in the departmental proceedings. The writ petition does not allege any procedural irregularity or infirmity in conduct of the departmental proceedings much less any prejudice caused to the Petitioner because of the same. The only averment is that the order of punishment is bad and therefore the Petitioner is entitled to full salary for the period of suspension.

5. The foundational pleadings have to be laid in the writ petition to establish a case or a claim warranting interference under Article 226 of the Constitution of India. If the foundational pleadings themselves are missing, there is no occasion for the Court to start a roving inquiry for finding out if the departmental proceeding was held in accordance with law or not. Once an order of punishment has been passed and there is no challenge substantially to the order of punishment on specified grounds of illegality, the question for grant of salary for the period of suspension revoked after imposition of punishment does not arise.

6. The writ petition is dismissed.

Sd/-

**(Navin Sinha)**  
**CHIEF JUSTICE**