

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2083 of 2016

Bhagto Ekka S/o Late Sukhu Ekka, Aged About 56 Years R/o Room No. 8, Dipti Vihar Colony, Janjgir, District Janjgir Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. Mission Director, Rajiv Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), 2nd Floor, Board Office Composite Building, Byron Bazar, Raipur Chhattisgarh 492001 Pension Bada
3. District Education Officer, Janjgir, District Janjgir Champa (Chhattisgarh)
4. District Mission Coordinator, Rajiv Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), Janjgir District Janjgir Champa (Chhattisgarh)

---- Respondents

For Petitioner
For Respondents No.1 & 3

Shri Mateen Siddiqui, Advocate
Shri Vivek Sharma, GA

Order On Board

06/06/2016

1. The present writ petition has been preferred challenging the order dated 10.05.2016, whereby the services of the petitioner has been placed under suspension. A perusal of the impugned order would clearly reflect that the impugned order of suspension has been issued

invoking the provisions of Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (henceforth 'the Rules of 1966'). Rule 23 of the Rules of 1966 specifically has an appellate provision, wherein the present petitioner should have preferred an appeal against the impugned order before the Appellate Authority.

2. A perusal of the pleadings of the petitioner would also reflect that the impugned order dated 10.05.2016 was passed with immediate effect. Soon thereafter, the petitioner had preferred a representation and the District Education Officer, also (as stated in the writ petition) has recommended in favour of the petitioner and also for revocation of the suspension order and recommended not to take any disciplinary action against the petitioner. The representation of the petitioner however would not substitute a statutory appeal and the petitioner has to prefer an appeal before the Appellate Authority against the impugned order.
3. It is settled legal position that in the event of there being statutory appeal prescribed in the Rules, the Writ Court should not normally interfere with the disciplinary/administrative decisions taken by the employer.
4. On perusal of the record what is reflected is that the petitioner immediately had questioned the issuance of order of suspension before the higher authorities, but it was only in the form of a representation. The petitioner had to prefer a duly constituted appeal under the provisions of the rules governing the field and the representation made by the petitioner cannot be treated as an appeal. Since there is a statutory alternative remedy available to the petitioner, which he has not availed, the present writ petition in its present form would not be maintainable.

5. With liberty to the petitioner of preferring a duly constituted appeal to the appellate authority, if he so desires, the present writ petition is rejected.
6. If such an appeal is preferred by the petitioner, the appellate authority is obliged to decide the same objectively within a reasonable period taking into consideration all the contentions of the appellant.
7. Consequently the writ petition being not maintainable is therefore dismissed.

Sd/-

(P. Sam Koshy)
V. JUDGE

Nirala