

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4386 of 2016

Ashok Kumar Chandrakar S/o S.P. Chandrakar Aged About 53 Years
Principal, Presently Working On The Post Of Block Education Officer,
Pondi Uprora, Police Station Bango, Civil And Rev. Distt. Korba
Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Joint Secretary, School Education Department, Mahanadi Bhawan, Naya Raipur, Distt. Raipur Chhattisgarh.
2. Director Public Instruction Chhattisgarh Government, Raipur, District Raipur Chhattisgarh.
3. Collector, Korba District Korba Chhattisgarh.
4. District Education Officer District Korba Chhattisgarh.
5. M.D. Diwan, Joint Secretary, School Education Department, Mantralaya Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
6. D. Lal Principal, Govt. High School Etma Nagar, Block Podi Uproada, District Korba Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. A.S. Rajput, Advocate.
For State	:	Mr. R.K. Gupta, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/09/2016

Heard on admission.

1. The petitioner has challenged the order of suspension firstly on the ground that the order does not contemplate departmental enquiry. The other grounds are that earlier when the suspension order was issued, it was challenged on the ground of competence as the Collector did not have jurisdiction. The suspension order was set aside and thereafter, the State Government has now passed the order on vague ground. It is argued that the allegations against the petitioner are not correct because the petitioner

had later on deposited all the uniform clothes with the competent authority. It is next submitted that other allegations against the petitioner are not so grave as to entail his suspension. It is also submitted that one employee against whom, there was allegation of late disbursement of salary, has only been given show cause notice but the petitioner has only been suspended. It is then urged that in the other area in the District where there has been delay in depositing the uniform clothes, no action has been taken.

2. As far as the first ground is concerned, impugned order on its bare reading shows that departmental enquiry against the petitioner is in contemplation. The requirement of Rule 9 of the Chhattisgarh Civil Services (Classification Control and Appeal) Rules, 1966 (for short "the Rules of 1966"), stand substantially complied with when the material contained in the suspension order indicates that a departmental enquiry is likely to be initiated. That is how the word 'contemplation' used in the Rules of 1966 has to be understood and interpreted. It is not the requirement of law that the word 'contemplation' should find place in the order of suspension. It is sufficient that contemplation of enquiry is reflected from the entire reading of the order of suspension. Therefore, this ground fails.

3. There is no other ground which goes to the aspect of jurisdictional competence of the State Government to issue the suspension order.

4. Learned counsel for the petitioner also raised argument that before issuing suspension order, he ought to be given a show cause notice. I am afraid, there is nothing in the Rules incorporating such a precondition for exercise of power of suspension and such contention is unknown to service jurisprudence.

5. All other grounds are such which are in rebuttal of the charges on the basis of which, the petitioner has been placed under suspension. For that, the petitioner's remedy lies in filing appeal under Rule 23 of the Rules of 1966 before the competent authority namely : the Governor.

6. In the case of [Whirlpool Corporation v. Registrar of Trade Marks, Mumbai, \(1998\) 8 SCC 1](#) and in the case of [Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others, \(2003\) 2 SCC 107](#), it has been succinctly held that unless the order is under challenge on the ground of violation of fundamental rights, jurisdiction, malice or violation of

principle of natural justice, ordinarily the writ Court would not entertain where there exists an efficacious and alternative remedy for redressal of the grievance.

7. All the grievances which are being raised by the petitioner relate to the merit of the case and not the jurisdiction of the authority. I do not find any material on record worth making out a prima facie case of malafide exercise of power. The authority, who has passed the order though has been impleaded as a party, there is hardly any material on record to show why he would have any kind of malice in fact against the petitioner. Merely because, in place of petitioner, some other officer has been asked to discharge his duty, that by itself, without anything more, does not amount to malafide exercise of power. It appears that the petitioner only in order to challenge the suspension order has made vague, unspecific and casual allegations against the officers of the Government.

8. In view of the above, I am not inclined to interfere with the order and leave it to the petitioner to work out remedy by filing appeal under Rule 23 of the Rules of 1966.

9. With the aforesaid observations, the petition is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E