

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1140 of 2014

Keshav Prasad Rathia S/o Heera Ram Rathia Aged About 46 Years R/o Village Chorha, P.S. & Tah, Kharsia, Distt Raigarh C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Collector Raigarh Distt. Raigarh C.G.
3. The Sub Divisional Officer Raigarh Distt. Raigarh C.G.
4. Mukesh Bansal Collector Raigarh, Thana City Kotwali, Distt. Raigarh C.G.

---- Respondents

Shri N.K.Malviya, counsel for the petitioner/s.
Shri Avinash Singh, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/12/2017

In this case, no return has been filed.

The petitioner has assailed correctness and validity of impugned charge sheet dated 25/09/2013 by which the Collector has instituted departmental enquiry against the petitioner who is not the competent authority.

2. Learned counsel for the petitioner submits that the Collector has no jurisdiction to institute departmental enquiry because under the rules, it is the jurisdictional Sub-Divisional Officer who is competent to impose penalty and the Collector acts only in the capacity as an appellate authority.

3. In the schedule appended to the M.P./C.G. Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'the Rules of 1966') the Sub-Divisional Officer has been designated and constituted as disciplinary authority competent to impose all penalty including minor and major penalty. The Collector has been

designated only as an appellate authority.

“Rule 13 of the Rules of 1966 provides as below -

13. Authority to institute proceedings – (1) The Governor or any other authority empowered by him by general or special order may -

a) Institute disciplinary proceedings against any Government Servant;

b) direct disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in Rule 10.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (I) to (iv) to Rule 10 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in clauses (v) to (ix) to Rule 10 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.”

A bare reading of Rule 13 would show that only those authorities can be the disciplinary authority who have been empowered in this behalf by the Governor.

4. The rule only prescribe the Sub-Divisional Officer as disciplinary authority. Therefore, the Collector could not have issued charge sheet. The impugned charge sheet is accordingly quashed though with liberty to the competent disciplinary authority to institute departmental proceedings against the petitioner. The petition is accordingly finally disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge