

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1060 of 2017**

Keerti Kumar S/o Mangal Singh, Aged About 41 Years R/o Village Laat,
Tehsil Dharamjaigarh, District Raigarh (Chhattisgarh).

---- **Petitioner**

Versus

1. SECL Through Chairman Cum Managing Director Seepat Road, Bilaspur (Chhattisgarh).
2. Chief General Manager, S E C L, Raigarh Area, District Raigarh (Chhattisgarh)
3. Colliery Manager, Bagdeva Colliery, District Raigarh, (Chhattisgarh).

---- **Respondents**

For Petitioner : Shri Rahul Tamaskar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

03/03/2017

1. The petitioner seeks to challenge the order dated 26.10.2016 whereby the services of the petitioner has been placed under suspension by the Mines Manager, Bagdeva Colliery of SECL.
2. Counsel for the petitioner submits that the order of suspension outrightly is bad in law for the reason that it is in contravention to the procedure prescribed under the rules and regulations governing the service conditions of the petitioner dealing with issuance of an order of suspension. According to him, the suspension order is bad in law for the reason that as per regulation 28.2, the order of suspension has to be followed by a charge sheet to be issued within 3 days from the date of issuance of suspension order explaining the misconduct committed by the delinquent employee. He further submits that till date no charge sheet

has been issued to the petitioner.

3. It is further contended that the order of suspension could not have been passed without conducting any inquiry. In the instant case, the management till date has not taken care whether inquiry has been contemplated or not. The order of suspension also could not have been issued without issuing any show cause notice. The petitioner also submitted that the order of suspension has been passed in October, 2016, however, till date, the petitioner has also not been granted subsistence allowance.
4. Lastly it is submitted that the charges levelled against the petitioner also are not one which is said to have been occurred during the course of discharging the official duties and the allegations levelled also would not fall within the ambit of a misconduct as has been shown by the respondents.
5. Be that as it may, without entering into the merits of the case, this court feels it proper that let the matter be examined by the respondent No.3 on the representation made by the petitioner on 27.10.2016 (AnnexureP/2) against issuance of suspension order dated 26.10.2016. The respondent No.3 shall take a positive decision and at the same time would also be required to examine whether the allegations levelled would fall within the ambit of misconduct or not, and secondly, why the charge sheet has not been issued to the petitioner within 3 days from issuance of suspension order as is required under the service regulations.
6. The authorities shall also look as to why any show cause notice was not issued before issuance of order of suspension if at all it is required under the regulations.

7. Let the respondent No.3 shall take a decision on the said representation of the petitioner dealing with the aforesaid observations made by this court within a period of 45 days from the date of presentation of certified copy of this order to the respondent No.3.
8. The petition is disposed of with the aforesaid observations.

Sd/-
(P. Sam Koshy)
Judge

inder