

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2992 of 2017

Trilok Nath Awasariya S/o Late Sukhdevram Awasariya Aged
About 56 Years R/o Block Colony Abhanpur, District Raipur,
Chhattisgarh Occupation:- Ag Iii, Janpad Panchayat, Abhanpur,
District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. Collector, Raipur, Collectorate, Raipur, District Raipur, Chhattisgarh
3. Chief Executive Officer, Janpad Panchayat, Abhanpur, District- Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. R.S. Baghel, Advocate.
For State	:	Mr. Satish Gupta, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/07/2017

Heard.

1. The petitioner has assailed legality and validity of order dated 04.07.2017, by which he has been placed under suspension by the Chief Executive Officer, Janpad Panchayat, Abhanpur, mainly on the ground that the order is passed by an incompetent authority, attachment is made to an office which is outside the Janpad Panchayat Establishment and that departmental enquiry is not in contemplation.
2. Rule 4 of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short "the Rules of 1999") provides for suspension as below :

"Rule 4. Suspension (1) The appointing authority or any authority to which it is subordinate, or disciplinary authority in that behalf, may place a member of Panchayat Service under suspension :-

(a) Where a disciplinary proceeding against him is contemplated, or is pending or

(b) Where a case against him in respect of any criminal offence involving moral turpitude is under investigation inquiry or trial:

Provided that where the order of suspension is made by an authority subordinate to or lower in rank than the appointing authority, such authority shall forth with report to the appointing authority the circumstances in which the order was made.

(2) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx”

3. A perusal of the aforesaid provision would clearly show that the power of suspension can be exercised either by the appointing authority or any authority to which it is subordinate or disciplinary authority.

4. Learned counsel for the petitioner could not dispute that under the Rules of 1999, the Chief Executive Officer is the competent authority to impose minor penalty. Therefore, in that capacity, he is disciplinary authority. Therefore, the Chief Executive Officer certainly has the jurisdiction to exercise the power of suspension in respect of the petitioner. Therefore, it cannot be said that the order is without jurisdiction and incompetent.

5. As far as the other grounds are concerned, all those grounds relate to illegality, irregularity and want of jurisdiction or malice. Therefore, those grounds could always be raised by the petitioner by taking recourse to the ordinary remedy of statutory appeal available to the petitioner under the Rules of 1999 rather than it being examined by the writ Court.

6. Taking into consideration the well settled legal position that the writ Court would not ordinarily entertain a petition challenging an order against which there exists a remedy of appeal under the law in the absence of there being a case made out on the ground of absence of jurisdiction or malice, I am not inclined to entertain the petition and is therefore dismissed, however, with liberty to the petitioner to file appeal against an order of suspension before the competent authority as provided under the law.

Sd/-

(**Manindra Mohan Shrivastava**)
J U D G E