

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 212 of 2017

1. Malkit Singh Gaidu S/o Mohendra Singh, Aged About 52 Years R/o Nayapara Jagdalpur District Bastar Chhattisgarh.
2. Sonu Bhadoriya, S/o Brijendra Singh Bhadoriya, Aged About 37 Years R/o Nayapara Jagdalpur District Bastar Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through : The Secretary, Department Of Home, Mahanadi Bhawan, New Raipur District Raipur (Chhattisgarh)
2. The Collector, Bastar District Bastar Chhattisgarh.
3. The Superintendent Of Police, Bastar District Bastar Chhattisgarh.

---- Respondents

For Petitioner	: Shri Sourabh Bhushan Shrivastava along with Ms. Sapna Choudhary, Advocate.
For State/Respondents	: Shri Neeraj Sharma, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/07/2017

1. This petition has been brought challenging the impugned order dated 12.6.2017 passed by respondent No.2 with a prayer to quash the impugned order.
2. Learned counsel for the petitioner submits that the notice dated 17.5.2017 **Annexure P-2** was given to the petitioner under Section 8 of Rajya Suraksha Adhiniyam, 1990, in which the petitioner was ordered to give his appearance on 22.5.2017 before respondent No.2. As per the order-sheet of the case, appearance of petitioner was recorded through advocate on the given date. The case was adjourned for 29.5.2017 on which date petitioner was again represented through advocate. The case was further adjourned for 12.6.2017. On this date, respondent No.2 rejected the appearance of petitioner through advocate and closed his opportunity of hearing. Learned counsel for the petitioner further submits that this case may be disposed of with an appropriate direction for affording opportunity of hearing to the petitioner.

3. Learned counsel for the State has no objection if the case is disposed of with a suitable direction.
4. The notice given to the petitioner appears to be under the provisions of Section 8(1) of C.G. Rajya Suraksha Adhiniyam, which required the petitioner to submit his explanation simplicitor. Section 8(3) of the Adhiniyam, 1990 provides that in such cases the notices appear through legal practitioner as well. It is only under the provisions of Section 8(4) of the Act, 1990 that District Magistrate may specifically require the attendance of the person against whom any order proposed is to be made under Sections 3, 4, 5 or 6 and then require such person to appear before him and to execute a security bond with or without sureties for attendance during the inquiry. Clearly this is a proceeding of later stage, after the explanation is submitted by the person notice.
5. Considering the notice in this case and the provisions of law in this respect, it seems appropriate to dispose of this case with an appropriate direction, at the motion stage. Hence, this petition is allowed. Invoking under Article 226 Constitution of India the impugned order dated 12.6.2017, is set aside.
6. Respondents are directed to afford proper and suitable opportunity as per law to the petitioner before passing any order in the matter initiated against him.
7. Accordingly, this petition stands disposed of at the motion stage itself.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE