

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 505 of 2017**

Rajesh Ekka S/o Rafiyal Ekka, aged about 54 years, Panchayat Secretary (suspended), Gram Panchayat Raikera, District Jashpur (C.G.) Mob. : 8223944005

---- Petitioner

**Versus**

1. State of Chhattisgarh, through the Secretary, through Department of Panchayat, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur (C.G.)
2. Chief Executive Officer, Jila Panchayat, Jashpur, District Jashpur (C.G.)

---- Respondents

|                           |   |                                                      |
|---------------------------|---|------------------------------------------------------|
| For Petitioner            | : | Shri T.K. Jha, Advocate                              |
| For Respondent No.1/State | : | Shri A.S. Kachhawaha,<br>Additional Advocate General |
| For Respondent No.2       | : | Shri Vaibhav Goverdhan, Advocate                     |

**Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice****Hon'ble Shri P. Sam Koshy, Judge****Order on Board****12/04/2017**

1. We have heard the learned counsel for the Petitioner, the learned counsel for the Panchayat and the learned Additional Advocate General for the State.
2. This writ petition is filed challenging what the Petitioner calls as continuous placement under suspension without re-admission to duty. It is pleaded that the Petitioner is a low paid employee and is unable to sustain his family with the marginal financial benefit that he may get by way of subsistence allowance during suspension. Pointing out that the extant rules do not provide for any outer time limit for serving of memo of charges, it is pleaded that the memo of charges itself has to be treated as *non est*. The Petitioner

stands to assert that the memo of charges have not been served on him.

3. The stand taken by the Panchayat through its pleadings is that the memo of charges were actually issued and the Petitioner evaded service of memo of charges and that ultimately the memo of charges were actually served on 3.2.2017.
4. The fact of the matter remains that the Petitioner was placed under suspension on 23.7.2016. The memo of charges was issued on 27.8.2016. A copy of the memo of charges with the articles of charges is placed along with the pleadings of Panchayat in opposition to this writ petition. The question whether the memo of charges were actually served on the Petitioner on 3.2.2017 or on any other date thereafter need not be of much consequence because, as a matter of fact, the copy of the memo of charges has been placed on record with notice to the Petitioner's counsel. That being so, we treat such service of copy of memo of charges through his counsel as due service of memo of charges on the Petitioner.
5. In that view of the matter, on the totality of the facts and circumstances of the case in hand, ends of justice would be satisfied if the disciplinary proceedings initiated against the Petitioner is concluded within an outer limit of three months from today. If that is not done on any ground which is not attributable to the Petitioner, he will be entitled to request the establishment to re-admit him to duty even pending further disciplinary proceedings without expressing any opinion on merit or demerit of the so called charges against the Petitioner. The questions of law sought to be raised by the Petitioner are left open.
6. The writ petition is ordered accordingly.

**Sd/-**

(Thottathil B. Radhakrishnan)  
**Chief Justice**

**Sd/-**

(P. Sam Koshy)  
**Judge**