

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 114 of 2015**

- K. P. Dewangan S/o Shri K.R. Dewangan, Aged About 43 Years Ex - Joint Collector, District Jashpur Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh S/o Through Secretary General Administration Department, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. Secretary, Panchyat Department & Social Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Superintendent Of Police State Economic Offence & Anti Corruption Bureau Chhattisgarh, Near Jai Jawan Petrol Pump, Telibandha Road, Raipur Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Anup Majumdar, Advocate.
For Respondents/State	:	Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****21/08/2017**

Heard.

1. This petition has been brought with a prayer to quash the criminal proceedings initiated against the petitioner on the basis of FIR in Crime No.51 of 2009.
2. Petitioner was posted as Chief Executive Officer, Zila Panchayat, Kanker between the years 2005 & 2007. During this period, the procedure for appointment of Shiksha Karmis Grade-II was taken up and appointment orders were issued on the basis of prepared selection list. It came to the notice of petitioner that some appointees have produced false certificates and had taken undue benefit by obtaining additional marks. On the basis of those false certificates, the petitioner ordered for verification of the certificates of all the

appointees and thereafter, on the basis of report submitted it was found that 10 of the Siksha Karmi appointees had submitted false certificates, who were terminated from the service, later on. The Economic Offences Wing registered FIR against the petitioner and others and on completion of investigation, charge-sheeted the petitioner along with others for the offences under Sections 420, 468, 471, 120(B), 34 of Indian Penal Code (for short 'IPC') and Section 13 (1) (D) of Prevention of Corruption Act.

3. It is submitted by counsel for the petitioner that in the whole procedure of appointment of Shiksha Karmis, he had acted in supervisory capacity. By an order dated 30.5.2006 (**Annexure P/1**) Mr. Leos Kujoor, Additional Chief Executive Officer, Zila Panchayat, Kanker was authorized to conduct all the proceedings for evaluating and marking the certificates, for interviewing the candidates, for preparing merit list and presenting it before the selection committee. Other Officers and employees were also deputed to conduct this procedure vide orders (**Annexure P/2 & P/3**). The office note-sheets (**Annexure-P/5**) also clearly demonstrate that it was Mr. Leos Kujoor, the Additional CEO who was acting and performing as per the authorization and the petitioner was simply supervising the procedure being conducted for the appointment of the Shiksha Karmis.
4. The petitioner had diligently acted on the information received by him, that some candidates have submitted false certificates in order to take undue advantage in getting appointment of Shiksha Karmis. It is also submitted that soon after petitioner was transferred from Kanker and thereafter the Additional CEO was in-charge of the documents for long time hence, it appears that the documents of the whole proceedings, which would have held the petitioner innocent, were not presented before the Investigation Officer and have disappeared from the office either accidentally or deliberately, hence, for these reasons, petitioner is

entitled for reliefs as claimed in this petition.

5. Learned counsel for the petitioner submits that charge-sheet has been submitted against the petitioner and charge has already been framed and the trial is in progress. Hence, at this stage, petitioner is bound to face trial in present case before the trial Court and the grounds raised in this petition are basically the grounds which can be raised in defence during trial.
6. Perused the record.
7. Considering all the submissions made and on perusal of all the documents on record, it appears that the trial against the petitioner is currently under process. As per the submissions made by the petitioner, it cannot be made out at this stage that the petitioner had no role to play in the concerned appointments which have been put to question in the trial. Definitely, it is a case where the petitioner would require to prove by way of defence that he has no connection with the offence committed. Hence, it is not a case to be entertained under Article 226 of the Constitution of India. If the petitioner succeeds to prove his defence, he shall be benefited with the relief prayed for, and as such, the lawful remedy being available to the petitioner by facing the trial itself is a ground on which this petition deserves to be dismissed. Hence, it is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE