

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 6309 OF 2011**

Bali Ram Chaurasia, S/o Shri Chaitu Ram, aged about 52 years, Head Master Government Girls Middle School, Surangpani, Block- Pathalgaon, District Jashpur (CG)

... Petitioner

versus

1. State of Chhattisgarh, through: the Secretary, Department of Tribal Welfare, Mantralaya, DKS Bhawan, District Raipur (CG)
2. Commissioner, Tribal Development, Raipur (CG)
3. Assistant Commissioner, Tribal Development, Jashpur, District Jashpur (CG)
4. Collector, (Tribal Welfare Branch), Jashpur, District Jashpur (CG)
5. Block Education Officer, Pathalgaon, District Jashpur (CG)

... Respondents

For Petitioner	:	Mr. Manoj Kumar Sinha, Advocate.
For Respondents	:	Mr. Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/07/2018

1. Challenge in the present writ petition is to the order of punishment dated 31.3.2008, Annexure P-3, whereby the petitioner has been inflicted with a minor punishment of stoppage of two annual increments without cumulative effect and also for recovering of an amount of Rs. 1200/- on two installments of Rs.600/- each.
2. Against the said order, the petitioner had preferred an appeal which stood rejected vide order dated 18.2.2011, Annexure P-10, and a subsequent revision which too stood rejected vide order dated 9.6.2011, Annexure P-1.
3. Allegation against the petitioner is that the petitioner had not released the scholarship to be paid to the students in the school and the same was retained by him. The petitioner at the relevant point of time was working as Headmaster of Govt. Girls Middle School, Lude, under Block Pathalgaon, District Jashpur. The services of the petitioner were placed under suspension on 4.6.2005 and a charge-sheet was issued on 12.7.2005 and thereafter an order of punishment was passed on 31.3.2008.

4. The sole contention of the learned counsel for the petitioner is that the petitioner had already returned back the money to five of the students who were entitled for and so far as the other students are concerned since they were absenting from the school the money has been deposited with the school authorities and as such there is no financial irregularity committed by the petitioner for being punished. He further contended that a departmental enquiry also has been conducted behind the back of the petitioner and the petitioner has not been granted sufficient opportunity of defence, on which ground also the enquiry stands vitiated.

5. Without entering into the veracity of the enquiry conducted, it would be relevant at this juncture to consider the submission of the petitioner on the merits itself. Considering the allegations which have been leveled against him and the contention of the petitioner that he has paid back the entire money, when we look into the record it appears that the petitioner was placed under suspension first on 4.6.2005 and a charge-sheet was issued on 12.7.2005. However, the contention of the petitioner of having made the payment to five students and the balance amount being deposited in the school account are a transactions that took place on 23.8.2005 that is much after the petitioner was suspended and a charge-sheet was also issued.

6. Thus, from the aforesaid submissions itself it is apparently clear that the petitioner has tried to make good the damage subsequent to the department coming to know about the irregularity on the part of the petitioner. The fact that the petitioner has meanwhile deposited the entire money would further establish the fact that in fact he had received the money on behalf of those students who were to be paid scholarship, but had not released the same to the respective students.

7. So far as the enquiry not been conducted in a proper manner is concerned, if we look into the order dated 31.3.2008 it reflects that in spite of notices being given to the petitioner he had deliberately chosen not to participate in the enquiry proceedings. Thus, we do not intend to go into the aspect of the veracity of the enquiry proceedings.

8. The fact that the petitioner has subsequently realizing his mistake made good the damage is a sufficient evidence to establish the fact that there is some irregularity on his part and for which the department has issued with him a minor punishment of stoppage of two increments without cumulative effect. The same cannot be subjected to judicial review by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.

9. It is by now a settled position of law that so far as the scope of interference against an order of minor punishment is concerned, the powers of the High Court under Article 226 are minimized. The same can be interfered only in the event of there being a perversity in the finding of the disciplinary authority or that the punishment imposed is blatantly disproportionate to the gravity of the offence. From the nature of the proceeding it does not appear that the finding of the disciplinary authority to be either perverse or contrary to the evidence on record nor can it be said to be disproportionate to the charge leveled against the petitioner.

10. The writ petition thus fails and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge