

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2214 of 2018

Baban Prasad Bharti S/o Shri Dhaneshwar Ram, aged about 55 years, presently posted as Head Master at Government Middle School, Buddha-Bagicha, Raipur, District Balrampur-Ramanujganj.

---- Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur.
2. Director, Directorate of Public Instruction, Raipur (C.G.).
3. Commissioner (Revenue), Sargjua Division, District Balrampur-Ramanujganj.
4. Collector, District Balrampur-Ramanujganj.
5. District Education Officer, District Balrampur-Ramanujganj.

---Respondents

For petitioner	:	Shri Mateen Siddiqui, Advocate.
For State	:	Shri Shashank Thakur, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/04/2018

1. The respondents have been granted time to file reply on 12/03/2018 and again on 28/03/2018.
2. Today also, the State counsel submits that the State is not been able to file their reply.
3. Given the aforesaid factual matrix of the case, this Court is inclined to proceed and decide the matter with the materials available on record.
4. The challenge in the present Writ Petition is to the order of suspension Annexure-P/1 dated 12/01/2018.

5. According to the counsel for the petitioner, the present petitioner is working as an Headmaster at the Middle School, Buddha Bagicha, Vikas Khand, Rajpur, District Balrampur-Ramanujganj. He submits that since the petitioner is a Headmaster which is a Class-II post, the Collector is not empowered to issue the order of suspension. He further relied upon the decisions of this Court in WPS No.2804/2015 decided on 10/08/2015 so also in WPS No.4208/2012 and other bunch of Writ Petitions decided on 30/10/2015. In all these decisions it has been categorically held that the order of suspension cannot be issued by an officer lower than the appointing officer unless notified by the State Government. Further there is a notification of the State Government issued under rule 9 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 which empowers the Collector to suspend only an employee of class-IV and class-III category post and it is the Commissioner who has been empowered to suspend an employee of class-II and class-I category post.

6. In view of the same this Court has no hesitation in holding that the order of suspension since it has been issued by the Collector who is not otherwise the competent authority to issue an order of suspension so far as class-II and class-I rank officers are concerned, the same therefore would not be sustainable and deserve to be and is accordingly set aside.

7. However, this setting aside of the order of suspension itself would not preclude the competent authority under the Rules or the officer notified by the State Government under rule 9 to place the petitioner under suspension if the department still feels so.

8. The Writ Petition accordingly stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit