

AFR

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2365 of 2018

Deepak Kumar Tiwari S/o Shri Sanat Kumar Tiwari, aged about 32 years, R/o Near Choubey Colony, Bandhwapara, Sarkanda, Tahsil Bilaspur, Police Station Sarkanda, District Bilaspur (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh, Through its Secretary, Department of Revenue, Mahanadi Bhawan, Naya Raipur, District Bilaspur (C.G.).
2. Collector, District Bilaspur (C.G.).
3. Sub Divisional Officer (Revenue), Pendra Road, District Bilaspur (C.G.).
4. Tahsildar and Enquiry Officer, Pendra Road, District Bilaspur (C.G.).

---Respondents

For petitioner	:	Shri K.P.S.Gandhi, Advocate.
For State	:	Shri Shashank Thakur, Government Advocate.

Hon'ble Shri Justice P. Sam KoshyOrder on Board17/04/2018

1. The challenge in the present Writ Petition is to the order dated 04/01/2018 – Annexure-P/1 whereby the services of the petitioner has been placed under suspension. The challenge also is to the chargesheet issued against the petitioner dated 28/02/2018.
2. The contention of the counsel for the petitioner is that, the authorities issuing the order of suspension and chargesheet is not competent to issue the same and since it is without the authority, both the orders deserve to be set-aside.

3. Perusal of record would show that the order of suspension dated 04/01/2018 has been passed by the Sub Divisional Officer (Revenue), Pendra Road, Bilaspur and the chargesheet in the instant case seem to have been issued by the Tahsildar, Pendra Road, Bilaspur.

4. Perusal of record also show that the chargesheet has been issued to the delinquent employee the petitioner by the enquiry officer himself. It appears that the chargesheet has not been issued by the disciplinary authority to the petitioner and the same has been straight away issued to him by the enquiry officer.

5. The petitioner does not seem to have been provided with an opportunity to file reply to the chargesheet so as to convince the disciplinary authority that the allegation levelled against him is not justified. That it is only in the event of the reply of the chargesheet being unsatisfactory is the requirement for appointment of an enquiry officer. The said procedure seems to have not been complied with in the present Writ Petition.

6. So far as the order of suspension is concerned, the State counsel shows the provision of the land record manual wherein rule 10 of the said land record manual shows that a Patwari can be placed under suspension by the S.D.O. and in the instant case, the suspension order has been issued by the S.D.O. (Revenue) and the same therefore does not seem to be without authority or power and the order of suspension does not warrant any interference.

7. However, so far as the issuance of chargesheet is concerned it appears that, the disciplinary authority has not issued the chargesheet and the same has been for the first time issued to the petitioner by the enquiry officer himself which again is an illegal procedure adopted by the respondents and which is not sustainable.

8. The very purpose of issuance of chargesheet is to seek explanation of the delinquent employee as to what is his contention in respect of the allegation or complaint levelled against him. He is supposed to give the detailed reply to the chargesheet and only thereafter if the reply is found to be unsatisfactory is the requirement for appointment of enquiry officer.

9. In the instant case, there does not appear to be any chargesheet issued by the disciplinary authority nor was the petitioner given an opportunity to reply to the disciplinary authority.

10. For the said reason, the chargesheet issued to the petitioner dated 28/02/2018 being per-se illegal and it deserve to be and is accordingly set-aside/quashed.

11. However, the liberty is reserved with the State Government/disciplinary authority to issue the charge sheet to the petitioner in its proper format and under the appropriate rules governing the service condition of the petitioner and thereafter proceed with the enquiry, if necessary.

12. The Writ Petition accordingly stands partly allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE