

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4302 of 2018

Shrinivas Chapdi S/o Somajee Chapdi, Aged About 39 Years, Working As Rural Extension Agriculture Officer At Block Bhairamgarh, District Bijapur Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Agriculture, Mahanadi Bhawan, New Raipur, P.S. Rakhi, Raipur, District Raipur Chhattisgarh.
2. Director, Office Of Directorate Of Agriculture, Labhandi, Raipur, District Raipur, Chhattisgarh.
3. Joint Director, Office Of Divisional Joint Director, Agriculture, Bastar Division, Jagdalpur, District Bastar Chhattisgarh.
4. Deputy Director, Office Of Deputy Director, Agriculture, District Bijapur Chhattisgarh.
5. Smt. Jamuna Sakani, Chairman (Adhyaksha), District Panchayat Bijapur, District Bijapur Chhattisgarh.

---Respondents

For petitioner	:	Shri Vinod Deshmukh, Advocate.
For State	:	Shri Shashank Thakur, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/07/2018

1. The challenge in the present Writ Petition is to an order whereby the petitioner has been placed under suspension and also to the issuance of chargesheet.
2. The solitary ground of challenge is that, both the orders - the suspension order as well as the chargesheet have been issued by an officer lower in rank than the appointing authority and therefore the same is bad in

law and deserve to be set aside. According to the counsel for the petitioner, the appointing authority of the petitioner who is working as a Rural Extension Officer is the Director, but in the instant case, an order of suspension and the chargesheet has been issued by the Deputy Director who is a subordinate officer to the appointing authority of the petitioner which according to the counsel for the petitioner is bad in law.

3. The abovesaid ground of the counsel for the petitioner may not be sustainable for the reason that, very recently, this Court dealing with similar issue had disposed off one Writ Petition (S) No.7779/2011 on 28/06/2018 wherein in paragraph 3, it has been held as under:-

“3. This contention of the petitioner that the disciplinary proceeding cannot be initiated by the officer other than the disciplinary authority or subordinate to the disciplinary authority is not sustainable. The Supreme Court in the case of Inspector General of Police and another Vs. Thavasiappan reported in (1996) 2 SCC 145 has held that there is nothing in law which inhibits the authority subordinate to the appointing authority to initiate disciplinary proceeding for issuance of charge sheet. It is also not necessary that the charge should be framed by the authority competent to award punishment. A similar view was taken by the Hon'ble Supreme Court in AIR 1998 SC 2210 (Steel Authority of India & another v. Dr. R. K. Diwakar & Others) and AIR 2003 SC 4119 (State of U.P. & another v. Chandrapal Singh & another). In (1995) 1 SCC 332 (Transport Commissioner, Madras 5 v. A. Radha Krishna Moorthy) again the Supreme Court held that “Insofar as initiation of enquiry by

an officer subordinate to the appointing authority is concerned, it is well settled now that it is unobjectionable. The initiation can be by an officer subordinate to the appointing authority. Only the dismissal/removal shall not be by an authority subordinate to the appoint authority.” Given the facts, the said judgments, the ground by the petitioner is not sustainable.”

4. In the light of the decision of the Hon'ble Supreme Court referred to in the preceding paragraph so also taking note of the fact that this Court had already taken a stand that merely because the suspension order and the chargesheet has been issued by the person subordinate to the appointing authority would not by itself vitiate the order of suspension and the chargesheet. The only requirement is that the punishment order on the conclusion of the departmental enquiry if any proposed shall only has to be issued by the appointing authority and the same cannot be issued by an officer lower in rank than the appointing authority.

5. In view of the law laid down by the Supreme Court in this regard in the judgment cited above, this Court does not find any strong case made out by the counsel for the petitioner calling for an interference with the two orders under challenge.

6. The Writ Petition thus being devoid of merits deserve to be and is accordingly rejected.

7. However, our reluctance in entertaining the Writ Petition would not preclude the petitioner to file a detailed reply to the chargesheet before the

competent authority so also he would not be precluded from preferring an appeal if any against the order of suspension.

8. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit