

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 7021 OF 2018**

Jai Kumar Mahobiya, S/o Shri Shiv Prasad Mahobiya, aged about 49 years, presently working as Asstt. Teacher (L.B.), Primary School, Pandopara, Kadrewan, Block- Khadgawan, District Korea (CG)

... Petitioner

versus

1. State of Chhattisgarh, through Secretary, School Education Department, Mahanadi Bhawan, Raipur (CG)
2. Director, Public instructions, Directorate, Indrawati Bhawan, Atal Nagar, Raipur (CG)
3. District Education Officer, District, Korea (CG)
4. Block Education Officer, Block- Khadgawan, District Korea (CG)
5. Asstt. Block Education Officer, Block- Khadgawan, District Korea (CG)
6. Sankul Shaikshanik Samanvayak, (C.A.C.), Block- Khadgawan, District- Korea (CG)

... Respondents

-
- Mr. Hemant Upadhyay, Advocate, under instructions of Mr. Sushil Dubey, Advocate, for the Petitioner.
 - Mr. Syed Majid Ali, Dy. Govt. Advocate, for the State.
-

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/10/2018

1. Challenge in the present writ petition is to the order dated 5.1.2018, Annexure P-1, whereby the services of the petitioner has been placed under suspension.
2. The primary contention assailing the order of suspension is the fact that the order of suspension has been issued ignoring the fact that the petitioner had been issued with a show cause notice on the previous date i.e. on 4.10.2018 which too was served upon the petitioner only on the date of suspension and before awaiting for the reply of the petitioner to be filed on the said show cause notice, the respondents have placed the petitioner under suspension. It was the further contention of the petitioner that the petitioner has sufficiently replied to the show cause notice that the allegations rendered in the show cause notice are incorrect and that he was in fact present on duty on the said date.

3. The contention so raised by the petitioner for the moment may not be crucial for determining the present writ petition inasmuch as the reply that the petitioner has filed has to be considered by the competent authority of the department. So far as the ground of the suspension being issued without waiting to the reply of the show cause notice is concerned, it is settled position of law that the suspension is not an order of punishment. For placing an employee under suspension, there is no necessity of issuance of show cause notice before the order of suspension is issued. The suspension and show cause notice are two distinct administrative decisions taken by the authorities and the show cause notice is to decide the further course of action and the order of suspension is to ensure that the further damage is not caused on account of alleged lapse and misconduct on the part of the petitioner. Moreover, this Court is also of the opinion that the order of suspension is an appealable order and the petitioner has not preferred an appeal against the order of suspension.

4. For all the aforesaid reasons, this Court is not inclined to entertain the present writ petition. The writ petition accordingly fails and the same is dismissed.

Sd/-
(P. Sam Koshy)
Judge