

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7128 of 2018**

Maharathi Rathore S/o Shankhu Ram, Aged About 55 Years, R/o Village Dharashiv, P.S. Pamgarh, Tehsil Pamgarh, District Janjgir Champa, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Education, Indrawati Bhawan, Mantralay, Atal Nagar, Raipur, District Raipur Chhattisgarh
2. Director, Public Education Directorate, Block - 3, First Floor, Indrawati Bhawan, Atalnagar, District Raipur Chhattisgarh
3. District Education Officer, Janjgir, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri V. R. Tiwari, Advocate
For State.	:	Shri D. Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29.10.2018**

The challenge in the present writ petition is to the order Annexure P-1 dated 03.10.2018 whereby the services of the petitioner have been terminated on account of the fact that the petitioner stood convicted in a criminal case on 28.02.2018 passed by the Judicial Magistrate First Class, Pamgarh for the offence under Sections 147, 323/149 of IPC.

2. The contention of the counsel for the petitioner is that the finding of

the authorities while terminating the services of the petitioner is erroneous to the extent that there is a finding given by the authorities that the petitioner vide the said judgment dated 28.02.2018 has been convicted and sentenced imprisonment of one month, whereas actually he has been only inflicted with a penalty of Rs.1,000/- for each of the offences and only in the default of payment of penalty of Rs.1,000/-, there was a sentence of one month in both the offences. Therefore, prima facie, the finding of the authorities in reaching to the conclusion that the petitioner has been convicted and sentenced to undergo imprisonment for one month is bad in law. Therefore, the impugned order needs reconsideration by the authorities.

3. It is all the more relevant at this juncture to mention that while passing the order of termination, the authorities ought to have considered the circular/notification of the State Govt. which prescribes the details of the offences under the Indian Penal Code which would fall within the purview of moral turpitude. The services of the petitioner could have been terminated only in case the offence which has been committed by the petitioner would fall within the purview of morale turpitude. The notification of the State Govt. clearly reflects that neither the offence under Section 147 nor does the offence under Section 323/149 come under the offence which would fall within the ambit of moral turpitude.

4. Given the aforesaid facts, this Court is of the firm opinion that the impugned order is not sustainable and the same is accordingly set aside/quashed. Reserving the right of the respondents to reconsider the case of the petitioner and while reconsidering the case of the petitioner, the

authorities would also keep in mind the judgment of the Supreme Court in the case of Avtar Singh Vs. Union of India and others, (2018) 1 SCC 268, the writ petition stands disposed of.

**Sd/-
P. Sam Koshy
Judge**