

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7450 of 2018**

Jagdishram Gawde S/o Late Duwaruram Gawde, Aged About 60 Years, Caste Gond, R/o Village Kalgaon, Post Antagarh, Tahsil-Antagarh, District- U.B. Kanker, Chhattisgarh, Present Address-Salihapara, Bhanupratappur, Kanker, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, School Education Department, Mantralaya, Atal Nagar, District- Raipur, Chhattisgarh
2. Director Public Education, Sanchanalaya Naya Raipur, District-Raipur, Chhattisgarh
3. Collector, District- Uttar Bastar, Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For State	:	Shri Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14.11.2018**

The challenge in the present writ petition is to the order passed by the respondents Annexure P-8 dated 21.06.2018 whereby his request for setting aside of the punishment order dated 27.06.2012 has been rejected.

2. The facts of the case are that the petitioner while working as a Block Education Officer was made Incharge of Chief Executive Office of Janpad Panchayat Koylibeda in August, 2007. While discharging the duty of CEO, the petitioner initiated certain recruitment process for filling up the post of

Shiksha Karmi. The allegation is that against the vacant post of 57, the petitioner appointed as many as 137 Shiksha Karmis without any sanction or approval or authority from the higher authorities. Subsequently, the petitioner was placed under suspension on 04.01.2008 and charge sheet was issued on 02.04.2008. After a departmental enquiry the petitioner was inflicted with a punishment of stoppage of 2 increments with cumulative effect. The petitioner thereafter did not challenge the same any further. While charges in the Criminal Case were framed, the petitioner was prosecuted only for the offence punishable under Sections 420/34, 467/34, 468/34 & 471/342 of IPC. The petitioner finally stood acquitted from the criminal case vide judgment dated 29.08.2017 passed by the Chief Magistrate First Class, Pakhanjore, District North Bastar Kanker in Criminal Case No. 146 of 2015. Subsequent to the acquittal of the petitioner in the criminal case, he moved a representation to the authority to reconsider the punishment order dated 27.06.2012 which stood rejected vide the impugned order dated 21.06.2018.

3. The contention of the counsel for the petitioner is that in the criminal case that was filed against the petitioner in respect of the same set of charges, since he has been acquitted, the order of punishment imposed in June 2012 would no longer be sustainable and it should be set aside/quashed. He submits that the rejection of the application of the petitioner vide impugned order is on the ground of delay whereas the authority ought to have considered it on merits in the light of the judgment of acquittal from the Court.

4. Perusal of the record particularly taking note of the facts and circumstances of the case, this Court is of the opinion that the contention of

the petitioner would not be sustainable for the reason that the punishment order dated 27.06.2012 has been passed after a duly conducted disciplinary proceedings where the charges were in respect of the misconduct which the petitioner had committed in the course of discharge of his duties whereas the criminal case which was initiated against the petitioner was in respect of the offence under the Indian Penal Code committed by the petitioner while discharging the duties that of a CEO of Janpad Panchayat Koylibeda.

5. Record shows that the petitioner pursuant to the punishment order dated 27.06.2012 has never questioned the same any further either in appeal or before any Court of law and by efflux of time the said order has attained finality. It is also pertinent to mention that the petitioner did not at the relevant point of time question the simultaneous proceedings of the departmental enquiry as well as the criminal case. The petitioner participated in both the proceedings without any objection.

6. Given the facts, only because the petitioner has been acquitted in the criminal case where the standard of proof required for establishing the offence is proof beyond reasonable doubt, would not be sufficient to recall the order of punishment passed in a departmental enquiry where the standard of proof required is the "preponderance of probability" and therefore this court is of the opinion that no strong case has been made out by the petitioner calling for an interference with the impugned order dated 21.06.2018.

7. The writ petition fails and is accordingly dismissed.

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