

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7749 of 2018

Shailendra Kumar Dixit S/o Shri Lalji Dixit Aged About 56 Years
Upper Division Teacher (Suspended) Resident Of Ward No. 9, Nagar
Panchayat Bodri, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh.
2. District Education Officer, Bilaspur, District Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate
For State	:	Mr. Dheeraj Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/11/2018

1. The petitioner has in the present writ petition sought for quashment of an order Annexure P/1 dated 08.03.2018.
2. The facts of the case is that the petitioner while working as an Upper Division Teacher, at the Govt. Boys Higher Secondary School, Chakarbhata, District Bilaspur was placed under suspension on 14.09.2016 for an alleged misconduct committed by him under the service Rules.
3. The grievance of the petitioner is that though more than two years have passed, the petitioner still continues to remain under suspension. He submits that in the light of the judgment of the Hon'ble Supreme Court in the case of "***Ajay Kumar Choudhary v. Union of India through its Secretary and Anr.***" reported in **[2015 (7) SCC 291]** and also the recent decision of the Hon'ble Supreme Court in the case of "***State of Tamil Nadu Rep. By Secretary to***

Govt. (Home) v. Promod Kumar IPS & Anr.” decided by the Hon'ble Supreme Court on 21st of August, 2018 in Civil Appeal No. 8427 and 8428 of 2018. The authorities beyond a particular period of time should have reconsidered the suspension order and should have decided whether there was any necessity in continuing with the petitioner under suspension.

4. The contention of the petitioner is that initially the petitioner had approached this Court vide WPS No. 5386/2017 (Shailendra Kumar Dixit v. State of Chhattisgarh & Anr.). This Court on 29.11.2017 has disposed off the writ petition with the following observations:

“8. The District Education Officer, Bilaspur shall hold a factual enquiry whether charge-sheet dated 19.10.2016 issued by him reached the office of Principal Government Surajmal Higher Secondary School, Bilha before expiry of period of 3 months from the date of suspension of the petitioner and whether the petitioner, despite being offered the charge-sheet avoided to receive the same. If it is found that the charge-sheet was not served without any fault of the petitioner, the petitioner shall be entitled to be reinstated in service in view of the decision of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra). However, if it is found that despite all attempts were made, the petitioner avoided to receive the charge-sheet, different conclusion may be drawn. Necessary enquiry shall be completed by the District Education Officer within a period of three weeks from the date of receipt of copy of this order and appropriate orders in writing shall be passed. In case, the petitioner's grievance is not redressed, the petitioner would be at liberty to file fresh petition.”

5. Based upon the said directions, the authorities concerned have passed the impugned order Annexure P/1, whereby his case for revocation of the suspension has been rejected.
6. The contention of the counsel for the petitioner is that in the impugned order the respondents have only considered the aspect, whether the service of the charge sheet was made upon the petitioner within 3 months or not, however the authorities have not considered the aspect, as to whether, there were any further necessity in keeping the petitioner under suspension. The counsel for the petitioner referred to the aforesaid two judgments of the Hon'ble Supreme Court in this regard.
7. Having heard the contentions put forth on either side and on perusal of the record, particularly when going through the contents of the impugned order dated 08.03.2018, it clearly reflects that in fact the charge sheet had already been prepared and was ordered for issuance as early as on 19.10.2016. However since the petitioner was absconding and had deliberately avoided acceptance of the service of charge sheet within the stipulated period of 90 days, it cannot be said that the department had failed to issue charge sheet to the petitioner. Thus on the said ground, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order (Annexure P/1).
8. However, taking note of the fact that the petitioner was placed under suspension for about more than two years time and that there does not appear to have any substantial progress made in the departmental enquiry and the impugned order Annexure P/1 also being silent on the aspect as to whether there is any further

necessity in keeping the petitioner under suspension, this Court is of the opinion that let the respondent No.2 pass a fresh order reconsidering the issue, as to whether there is any necessity in keeping the petitioner under suspension or not?

9. Let this exercise be concluded within a period of 60 days from the date of receipt of the certified copy of this order.
10. Meanwhile, the respondent No.2 is also directed to ensure that the departmental enquiry initiated against the petitioner is concluded at the earliest and an appropriate decision on the basis of the inquiry report is taken, so as to avoid further complications.
11. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved