

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.1834 OF 2019**

1. Vijay Kant Suryavanshi S/o Shri Pusauram Aged About 59 Years Ex - Accountant Office Of District Education Officer, Mungeli, District Mungeli Chhattisgarh. R/o Infront Of Santoshi Mandir, Ward No. 05 Azad Nagar Takhatpur District Bilaspur Chhattisgarh.

...Petitioner(s)**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education Mnatralaya , Mahanadi Bhawan Naya Raipur, Police Station Abhanpur District Raipur Chhattisgarh.
2. Director, Public Education, Directorate Of Public Education Raipur Police Station Raipur District Raipur Chhattisgarh.
3. District Education Officer, Mungeli Office Of District Education Officer Mungeli District Mungeli Chhattisgarh.
4. Narendra Kumar Chandra District Education Officer, Mungeli, Office Of District Education Officer Mungeli District Mungeli Chhattisgarh.

... Respondent(s)

For Petitioner	:	Ms. Deepali Pandey, Advocate.
For Respondent-State	:	Shri Ishan Verma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14.03.2019**

1. With the consent of the parties, the matter is heard finally at admission stage.
2. Challenge in this petition was to the order of dismissal of the petitioner from service dated 31.01.2019 passed by the respondent No.3.
3. The facts of the case is that, the petitioner while working on the post of Accountant was prosecuted in a criminal case under the Prevention of Corruption Act (in short, the PC Act). The criminal case finally stood decided and the petitioner was found guilty of having committed offence punishable under Sections 13(1) (d) and 13(2) of the PC Act and under Section 120-B read with Section 34 IPC. The petitioner was sentenced to Rigorous Imprisonment of three years for each of the offences. Pursuant to the judgment of conviction, the petitioner has been dismissed from

service vide impugned order dated 31.01.2019 issued by the respondent No.3.

4. The primary ground of challenge made by the petitioner in the present case is that, the petitioner's appointing authority is the Joint Director of the department and the impugned order of dismissal has been issued by an officer lower in rank and therefore the said order of dismissal may not be sustainable in the eye of law.
5. The said aspect is not disputed by the counsel for the State.
6. Given the fact that the impugned order has been passed admittedly by an officer lower in rank than the appointing authority, this court is of the opinion that the impugned order to that extent suffers from illegality, of it being passed by an officer who was otherwise not authorized or empowered under the service regulations to issue an order of dismissal. The impugned order dated 31.01.2019 to that extent deserves to be set aside.
7. Accordingly it is ordered that the order of dismissal dated 31.01.2019 stands set aside only on the ground of the same being issued by an incompetent authority inasmuch as it has not been issued by the appointing authority so far as petitioner is concerned.
8. The quashment of dismissal order dated 31.01.2019 would not preclude the respondents/State for passing of a fresh order in accordance with provisions of law by a competent authority under the service regulations.
9. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge