

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2767 of 2019**

Dr. Ram Narayan Khare S/o Late D. D. Khare Aged About 48 Years R/o
Quarter E - Iii, Govt. Polytechnic Campus, Ambikapur, Surguja
Chhattisgarh. State., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner**Versus**

1. Sant Gahira Guru Vishwavidyalaya Through Registrar, Surguja, Ambikapur
Chhattisgarh State., District : Surguja (Ambikapur), Chhattisgarh
2. Vice Chancellor Sant Gahira Guru Vishwavidyalaya, Surguja, Ambikapur
Chhattisgarh State., District : Surguja (Ambikapur), Chhattisgarh
3. Registrar Sant. Gahira Guru Vishwavidyalaya, Surguja, Ambikapur,
Chhattisgarh State., District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Petitioner	:	Mr. K. R. Nair With Ms. Veena Nair, Advocates
For Respondent/s	:	Mr. Neeraj Choubey, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/04/2019**

1. The Challenge in the present writ petition is to the order Annexure (P-5) dated 31/01/2019 passed by the Executive council of the respondent No. 1 University. Vide the impugned order Executive Council has attached the services of the petitioner to the Estate office of the University.
2. The facts of the case is that the petitioner was initially placed under suspension vide order dated 18/10/2018 contemplating an enquiry. The petitioner has preferred representation before the Chancellor who in turn vide order dated 29/01/2019 revoked the order of suspension and ordered for posting of the petitioner as a Principal of the Engineering College, Lakhanpur belonging to the respondent No.

1 University. The Council at the same time ordered that the petitioner would not be exercising any administrative or financial powers. Subsequently, on the very next day, the impugned order has been passed dated 31/01/2019 attaching the services of the petitioner to the Estate Office.

3. The contention of the petitioner is that the impugned order has been passed to circumvent the order passed by the Council revoking the suspension order and that the petitioner is being sent to a place where he would be sitting idle. That the petitioner would not be able to discharge his duties of either Principal neither would he be able to teach classes in the University which is his substantial nature of duty.
4. Counsel appearing for the respondent on the contrary referring to the impugned order submits that it is a case where in spite of the fact that the petitioner on revocation of suspension was posted as a principal without any financial and administrative power but the petitioner on the very next day of assuming the charge on 29/01/2019 is said to have issued an order calling for the entire files which were to be dealt by the Principal of the Engineering College. The Executive council therefore felt that if the entire records and the files handed over to the petitioner in the capacity of the Principal, there is all possibility of the petitioner either tampering the records or interfering with the enquiry proceedings which is contemplated. According to the counsel for the respondent, it is this reason why the impugned order was issued.
5. Having heard the contentions put forth on either side and on perusal of record what is reflected from the records that so far as the enquiry which has been contemplated against the petitioner, the petitioner has already filed a writ petition I.e WPS No. 1812/2019 and this Court has already granted interim protection to the petitioner so far as

further proceedings of the enquiry is concerned. So far as the impugned order dated 31/01/2019 is concerned, this Court on going through the records finds that finding of the executive council is based upon certain reasons or the developments that took place on previous day. It cannot be said that the executive council have taken a decision without any basis. Once when the executive council has applied its mind and has given reasons for taking such a decision, this Court in exercise of its power under Article 226 of the Constitution of India exercising the power of judicial review would find it difficult to sit over the decision of the executive council at this stage. This Court therefore finds it difficult to interfere with the said decision of the respondent. Moreover, what cannot be lost sight of is that it is only an order of attachment to the petitioner pending the departmental enquiry and petitioner meanwhile would be receiving his entire salary and other emoluments which was otherwise payable to Principal and as such there is no substantial loss that is going to be caused by virtue of the petitioner being attached to the Estate Office.

6. With the aforesaid observations, the writ petition stands rejected.

Sd/-
(P. Sam Koshy)
Judge