

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWP No. 2844 of 2005

- Santosh Kumar Soni, S/o Govind Prasad Soni, Aged about 33 years, R/o Pendra Road, Mangli Bazar, Gorella, District – Bilaspur, C.G.

---- Petitioner

Versus

1. State of Chhattisgarh – Through the Secretary, School Education Department, DKS Bhawan, Raipur, C.G.
2. The Mission Director, Rajiv Gandhi Shiksha Mission (Sarwa Shiksha Abhiyan) Avantika Vihar, Raipur, C.G.
3. The Collector, Bilaspur-cum-District Mission Director, Rajiv Gandhi Shiksha Mission, Bilaspur, C.G.

---- Respondents

For Petitioner	:-	Shri A. Majumdar, Advocate with Shri Basant Dewangan, Advocate
For Respondent-State	:-	Ms. Fouzia Mirza, Addl. A.G.
For Respondent No.2	:-	Shri Alok Chandra Rishi, Advocate on behalf of Shri Sadeep Dubey, Advocate

Order On Board ByHo'nble Shri Prashant Kumar Mishra, J04/07/2019

1. Petitioner would assail the legality and validity of the order Annexure P-8 by which he has been removed from services

of Block Coordinator (Contract Appointee).

2. The petitioner was appointed on the post of Block Coordinator on 18.10.1995. The contract appointment continued on year to year basis till the petitioner's services were terminated.
3. It is argued that the order of removal is bad in law as it violates principles of natural justice, inasmuch as the order refers to an inquiry in which the petitioner was neither noticed nor allowed to participate.
4. Documents filed with the return would indicate that on receiving certain complaints alleging financial irregularities in course of implementation of Sarwa Shiksha Abhiyan the Additional Collector, Pendra Road constituted an inquiry team to conduct inquiry. The inquiry team submitted its report on 19.05.2005 and 25.05.2005 both Annexure R-5. Perusal of the report would discern that it nowhere refers to any particular charge against the petitioner or any other officer. It was a general inquiry to ascertain as to whether any irregularity has been committed. Based on this report finding of commission of financial irregularity has been arrived and the same is mentioned in the impugned order. Once in the preliminary inquiry it was found *prima facie* that certain financial irregularities have been committed by the

petitioner or by the Block Development Officer (BDO), it was the duty of the concerned Competent Authority to have issued a show cause notice to the petitioner seeking his explanation on the charges because even if the petitioner being a contract appointee, he could not be subjected to a regular inquiry, the principle of natural justice mandates that if an employee is to be removed on certain charges he should be provided an opportunity of hearing.

5. In the matter of **Chandra Prakash Shahi vs. State of U.P. & Others, (2000) 5 SCC 152**, it has been observed by the Supreme Court that the temporary government servants or probationers are as much entitled to the protection of Article 311(2) of the Constitution as the permanent employees despite the fact that temporary government servants have no right to hold the post and their services are liable to be terminated at any time by giving them one month's notice without assigning any reason either in terms of the contract of service or under the statutory rules regulating the terms and conditions of such service.
6. Having found that the petitioner was not served any show cause notice making him aware of the proposed defaults or irregularities committed by him, his removal is in violation of principles of natural justice, therefore, the same deserves to be and is hereby set aside. The writ petition stands allowed.

7. It will remain open for the Competent Authority to proceed against the petitioner, in accordance with law.

Sd/-
(Prashant Kumar Mishra)
Judge

Ankit