

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 3461 of 2019**

Sachin Dongare S/o Late Shri Gorelal Dongare, Aged About 28 Years, R/o Near Baloda Chowk, Tahsil Baloda Bazar, District Baloda Bazar Bhatapara, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Urban Administration Department, Mahanadi Bhawan, New Mantralaya, Atal Nagar, District Raipur, Chhattisgarh
2. The Director, Urban Administration Department, Mantralaya, Atal Nagar, District Raipur, Chhattisgarh
3. The Chief Municipal Officer, Municipalities, Baloda Bazar, District Baloda Bazar Bhatapara, Chhattisgarh
4. The Chief Municipal Officer, Nagar Panchayat Tundra, District Baloda Bazar Bhatapara, Chhattisgarh

---- **Respondents**

For petitioner	:	Mr. Prakash Tiwari, Advocate
For State	:	Mr. Samir Behar, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/05/2019

1. The challenge in the present writ petition is to the order Annexure P-1 dated 22.04.2019. Vide the impugned order the petitioner has been placed under suspension for dereliction of duty and for misconduct.
2. The challenge to the impugned order is on the ground that there is a change in the place of posting of the petitioner along with the order of suspension which otherwise could not have been issued by the

respondents. According to the petitioner, once the petitioner is placed under suspension, he should have been retained in the same department/section till the departmental enquiry is not concluded. Further contention of the counsel for the petitioner is that there is no official order by which it could be said that the petitioner was under election duties except for the fact that there is an order issued by respondent no.3 assigning duties to the employees under respondent no.3 at different locations for maintenance of cleanliness in the area. According to the petitioner, it cannot be construed that the petitioner was assigned election duty. Moreover it is also the contention of the petitioner that without taking proper approval/sanction from the president/council as is required under the Service Condition Rules applicable upon the petitioner, the posting of the petitioner cannot be changed when he is placed under suspension.

3. On going through the pleadings of the writ petition and also a plain reading of the impugned order it appears that the petitioner has been placed under suspension on the ground of negligence and dereliction of duty and also for his act of misbehaviour. The respondents while issuing the impugned order has also changed the place of posting of the petitioner from district headquarter to Nagar Panchayat, Tundra, District Balodabazar-Bhatapara.
4. A perusal of the record would show that the petitioner has been placed under suspension on the ground of negligence, dereliction of duty and for certain misconduct. It is settled position of law that suspension is not a punishment. The suspension is always contemplating a disciplinary action. Once there is an allegation made against the petitioner so far as dereliction of duty and misconduct is concerned, this Court in exercise of its power of judicial review under Article 226 of the Constitution of India would not sit as

an appellate body over the authority concerned to decide the veracity of the order under challenge. It is always within the domain of the employer to place a person under suspension in the event of certain misconduct being detected. Thus, this Court finds it difficult to interfere with the order of suspension.

5. So far as the issue of change of posting is concerned, this Court again is of the view that in exercise of its power under Article 226 of the Constitution of India this Court at this juncture would not have the power to interfere with the same. Change of posting of the petitioner during the period of suspension has been made to Nagar Panchayat, Tundra, District Balodabazar-Bhatapara. This again cannot be said to be bad in law for the reason that most of the times the place of posting of a suspended employee is changed with an intention of ensuring that the said employee would not be able to tamper with the evidence which the department may need to prove the charges levelled against the petitioner.
6. Considering the fact that the change of posting also is not quite far away and it is within a short distance and that the object behind the change of posting is also possibly for ensuring that the evidence may not be tampered, 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 at this juncture.
7. The writ petition being devoid of merits deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
JUDGE