

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10367 of 2019

Sanjay Luther S/o Shri L.K. Luther, Aged About 55 Years Presently
Posted As Assistant Director (Now Suspended) , Achanakmar
Tiger Reserve, District - Mungeli Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Forest Department,
Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh.
2. The Under Secretary, Government Of Chhattisgarh, Forest
Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur
Chhattisgarh.

----Respondents

For petitioner – Shri Suyash Dhar, Advocate.
For State-Shri Alok Bakshi, Addl. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

09/12/2019

Heard.

1. The challenge in this petition is to the order of suspension dated 28/11/2019 (Annexure P-1).
2. The petitioner contends that he assumed the charge of the Achanakmar Tiger Reserve of the Core area on 3/09/2019. Because of the certain question raised in the legislative assembly over the poaching of the leopard took place in Achanakmar Tiger Reserve without any evidence or any document or even without any verification of the fact the petitioner has been suspended. It is contended that the incidence has occurred at buffer zone of the forest and the petitioner was placed at core zone of forest. He would submit that the petitioner in any case can demonstrate the fact that he is a better officer than the others and after he had assumed the charges in Achanakmar Tiger Reserve patrolling in the area has been increased substantially. It is stated the specific question which was raised before legislative assembly was with respect to the fact that death of the

leopard had taken place at buffer zone, therefore the petitioner cannot be suspended by the stigmatic order of suspension. He refers to a case law in between **Union of India & anr. Vs. Ashok Kumar Aggarwal** reported in **(2013) 16 SCC 147** and would submit that suspension order in the manner cannot be passed.

3. Per contra, learned State counsel opposes the argument and would submit that under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 under Rule 23 order of suspension is appealable, therefore petition is not tenable.

4. Rule 23 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 reads as under:-

“23.Orders against which appeal lies.-Subject to the provisions of Rule 22, a Government servant may prefer an appeal against all or any of the following orders, namely-

(i)...xxx...xxx...

(ii)...xxx...xxx...

(iii) an order of suspension made or deemed to have been made under Rule 9.”

5. Since at present the suspension order has been passed, as of now evidence as to what has happened in buffer zone or core zone is to be investigated which can be established only during the course of departmental enquiry. The explanation given by the petitioner at this stage cannot be accepted as gospel truth as against the ensuing evidence which may come and at the end the petitioner may prove that he is not involved for the misconduct for which he is suspended. At this stage to give a finding that the petitioner since was in-charge in core zone death of the leopard which took place at the buffer zone petitioner cannot be held liable would be premature. It may also happen that the animal might have travelled to the place from core zone to buffer zone and that is a matter of

evidence during the departmental enquiry. Apart from that order impugned is appealable, therefore the petitioner is at liberty to file appropriate statutory appeal under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 and I am not inclined to entertain this petition.

6. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE