

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2805 of 2020**

- Gopal Krishna Mishra S/o Shri Ravishanar Mishra Aged About 59 Years Presently Working As Assistant Director (Tribal) In The O/o Assistant Commissioner (Tribal) Korba (Chhattisgarh), R/o I.T.I Chowk, Janpad Panchayat Campus, Korba, Chowki Rampur, Police Station Kotwali, Korba Chhattisgarh ---- **Petitioner**

Versus

1. State Of Chhattisgarh Through - Secretary Department Of Tribal Welfare Development, Mantralaya, New Raipur Chhattisgarh.
2. The Commissioner Schedule Caste And Schedule Tribe, Development, Indravati Bhawan, Atal Nagar, Raipur Chhattisgarh.,
3. Assistant Commissioner Tribal Welfare, Korba, District Korba Chhattisgarh
4. Collector District Korba Chhattisgarh ---- **Respondents**

For Petitioner	:	Mr. Sunil Kumar Soni, Advocate
For State	:	Mr. Amrito Das, Addl. A.G.

Hon'ble Shri Justice Goutam BhaduriOrder17.07.2020

1. Heard
2. The challenge in the present writ petition is to the order of suspension dated 02.07.2020. Learned counsel for the petitioner submits that the petitioner is a Class II Gazetted Officer and the Collector do not have the power to suspend him. He further submits that as per the law laid down by this Court in WPS No. 3160/2006 decided on 09.10.2014 (Annexure P/4) the Collector would not be empowered under the Chhattisgarh Civil Services (Classification Control and Appeal) Rules 1966 (henceforth 'CCA Rules, 1966') to place the Class II Officer (Gazetted) under suspension and to institute departmental enquiry against him as he is not an appointing authority/disciplinary authority.

3. Learned State counsel opposes the argument and submits that even the competency of the Collector can be a subject on the ground of appeal as the order of suspension is appealable under Rule 23(III) of CCA Rules, 1966.
4. The challenge in this case is to the order of suspension dated 02.07.2020, the order is appealable under Rule 23(III) of CCA Rules, 1966 which 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) xxxxx xxxxx xxxxx xxxxx

(II) xxxxx xxxxx xxxxx xxxxx

(III) An order of suspension made or deemed to have been made under Rule 9;)

5. The legal proposition on which the petitioner placed reliance can also be a subject of ground of appeal which may be agitated and canvassed before the appellate authority. In view of the fact that the alternate statutory remedy is available that the order would be appealable under Rule 24 of CCA Rules, 1966 to the higher authorities and to ascertain the status of the petitioner factual aspects are required to be considered. I am not inclined to exercise the power under Article 226 of the Constitution of India to decide factual issues.
6. With the aforesaid directions/ observations, the present writ petition stands disposed off.

Sd/-

(Goutam Bhaduri)
Judge