

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3691 of 2020

Vijay Kumar Chelak, S/o Shri Ram Khilawan Chelak, Aged About 48 Years Occupation - Service - Panchayat Secretary, Janpad Panchayat Palari, R/o Village - Mudpar, Thana - Palari, District - Baloda Bazar - Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat and Samaj Seva, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. Collector, District - Baloda Bazaar - Bhatapara Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat, Baloda Bazaar - Bhatapara District - Baloda Bazaar - Bhatapara Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat Palari, District - Baloda Bazaar - Bhatapara Chhattisgarh.

---Respondents

For petitioner – Shri Vinay Pandey, Advocate.

For State- Smt. Richa Shukla, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

18/09/2020

Heard.

1. Instant petition is against the order dated 30/08/2020 (Annexure P-1) whereby the petitioner has been suspended in exercise of Rule 4 of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (hereinafter referred to as the 'Rules of 1999'). Learned counsel submits that the order would show that exercise has been made under Sub Rule 2 of Rule 4 which contemplates that in the event of any detention in the criminal charges or conviction the suspension order could have been issued, therefore the order itself is without jurisdiction and the appellate authority which is the General Administration Committee is not functioning at this moment, therefore the instant petition.
2. Learned State counsel opposes the argument and submit that under Part-II the Rule 4 is included, therefore there is misreading of the Rule 4 as has been projected. It is further submitted that only on

speculative ground argument has been made that the General Administration Committee is not functioning, therefore the petition is not tenable.

3. Perused the document and the Annexure P-1 dated 30/08/2020. Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 Part II is about the suspension. Under the heading Part II – Suspension Rule 4 (1) and (2) are two different modes wherein the suspension can be affected. Rule 4(1) contemplates that wherein the disciplinary proceeding against a person is contemplated then the suspension order can be issued. The order which is impugned would show that it is under Part-II – Suspension, therefore it cannot be bifurcated to read it as it is passed under Sub Rule (2) of Rule 4 of Rules, 1999. Further Rule 15 of the Rules of 1999 provide for statutory appeal even against the suspension and according to the appendix, since the order has been passed by the Zila Panchayat, Baloda Bazar, the appeal would lie before the General Administration Committee, being the appellate authority. Consequently, it cannot be presumed without any document on record that the General Administration Committee which is the appellate authority is non functional. Therefore since statutory appeal is provided, I am not inclined to exercise power under Article 226 of the Constitution of India.

4. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE