

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5149 of 2020**

1. Rajesh Tiwari S/o Late Murarilal Tiwari Aged About 54 Years Working As Chief Municipal Officer, Baloda, Nagar Panchayat Baloda, District Janjgir Champa Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, Mantralaya, Atal Nagar, New Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri H.B. Agrawal, Sr. Counsel along with, Shri Amit Tirkey, Advocate.

For State : Shri Mateen Siddiqui, Dy. A.G. along with Shri Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09.12.2020**

1. The challenge in the present is to the order of suspension dated 23.11.2020 Annexure P/2, whereby the service of the petitioner has been placed under suspension.
2. The plain reading of the order of suspension reveals that the petitioner has been suspended for an Act of issuing an order of appointment in favour of one Mukesh Bagchi on the post Safai Daroga on 20.09.2019. The allegation is that the said Mukesh Bagchi appointed as a Safai Daroga does not have the minimum eligibility criteria/qualification under the service Rules for the said post.
3. The contention of the petitioner is that, the case of Mukesh Bagchi for compassionate appointment was duly considered by the Mayor in Council and it was the Mayor in Council which had recommended the case of Mukesh Bagchi for appointment with a condition that within

the stipulated period the said employee shall obtain the requisite eligibility criteria so far as educational qualification is concerned. He further submits that the said person has also in between obtained the said qualification.

4. The further contention of the petitioner is that the respondents have till date not taken any action against the said Mukesh Bagchi, even though, they find him to be not qualified for the said post at the time of appointment. Yet however the petitioner has been made victim out of the said proceedings, even though the Petitioner had only passed the order based on the resolution / recommendation made by the Mayor in Council.
5. It was further contended by the petitioner is that the said order of suspension is bad-in-law for the reason that the same has been done with a malafide intention for the reason that recently the petitioner was transferred, against which the petitioner has approached this Court by way of a separate writ petition where this High Court had already stayed the transfer of the petitioner and which has cause annoyance to the authorities and who have therefore placed the petitioner under suspension. Counsel for the petitioner submits that the suspension is on lame ground does not have any force.
6. All said and done, once there is already an order of suspension issued by the respondent and in the order of suspension there is a specific reason assigned so far as alleged misconduct is concerned. It would not be well within the domain of this High Court to substitute itself as a disciplinary authority or an Appellate Authority to re-appreciate the reasons for which the petitioner has been placed under

suspension particularly when there is a reason assigned .

7. The petitioner submits that he has already made a detailed representation in this regard to the State Government vide Annexure P/3, however, till date no decision has not been taken.
8. Given the fact that the petitioner has already approached the respondents by way of a detailed representation the writ petition at this juncture is disposed of with a direction to the respondent No. 1 to take an appropriate decision on the said representation, duly considering the ground that he has raised in the representation. The petitioner would also be at liberty to file any additional representation, if he so wants, to be made to the respondent No. 1 within a period of 10 days from today. The counsel for the respondent No. 1 on receipt of the fresh representation, if any made by the respondents, shall consider both the representations within a period of 45 days from the date of receipt of copy of this order.
9. The writ petition accordingly stands disposed of.

**Sd/-
(P. Sam Koshy)
Judge**

Jyotijha